

Title 2

ADMINISTRATION AND PERSONNEL

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Chapter 2.04

CITY GOVERNMENT

Sections:

2.04.010	Reorganization--Aldermanic districts--Council salaries.
2.04.011	City council--Duties and responsibilities.
2.04.012	City manager; qualifications, selection, removal.
2.04.013	Powers of city manager, appointments.
2.04.015	City officials--Election.
2.04.020	Officers-Election.
2.04.030	Reorganization--Purpose.
2.04.040	City departments.
2.04.050	Appointment to boards and commissions.
2.04.060	Acting city manager.

2.04.010 Reorganization--Aldermanic districts--Council salaries. A. The government of the City of Eau Claire is reorganized under Chapter 64 of the Wisconsin Statutes providing for a city manager plan, with a council composed of eleven members to be nominated and elected for three-year terms. The members of the City Council shall be comprised of the following:

a. One member elected at large every third year who shall be the Council President and shall preside at all meetings of the City Council. Except, the Council President shall be elected to a single two year term in 2012, then, beginning in 2014 and continuing thereafter, shall again be elected to three year terms.

b. Five members elected every third year beginning with the year 2009 from and by the electors of districts apportioned according to law.

c. Five members elected at large every third year beginning with the year 2010.

d. The aldermanic districts from which the five members of the council shall be elected pursuant to the provisions of subsection A. b. are established as follows:

Aldermanic District One consisting of Wards 8, 10, 11, 12, 13, 16, 36, 37, 47 and 54.

Aldermanic District Two consisting of Wards 15, 18, 25, 26, 27, 28, 33, 35, 38, 39, 43, 44, 48, 49, 52 and 53.

Aldermanic District Three consisting of Wards 3, 17, 20, 21, 24, and 30.

Aldermanic District Four consisting of Wards 4, 7, 14, 19, 22, 23, 29, 40, 41, 42, 45, 50 and 51.

Aldermanic District Five consisting of Wards 1, 2, 5, 6, 9, 31, 32, 34, and 46.*

B. The salaries of the members of the city council shall be \$3,000 per year for each council member and \$3,600 for the council president.** (Charter Ord. 7009, 2012; Charter Ord. 6990, 2011; Charter Ord. 6980, 2011; Charter Ord. 7015, 2011; Ord. 6824 §1, 2008; Ord. 6601, 2005; Charter Ord. 6181, 2001; Ord. 5935, 1999; Charter Ord. 5466 §1, 3, 1995; Charter Ord. 5286 §1, 1992; Charter Ord. 5285, 1992; Charter Ord. 5157 §1, 1991; Ord. 4697, 1986; Charter Ord. 4688, 1986; Charter Ord. 3875 §1, 1978; Ord. 3626, 1976; Prior code §1.01 I).

2.04.011 City council--Duties and responsibilities. The city council shall possess and exercise all legislative and general ordinance powers imposed and conferred by general law or special charter. The council shall not have the power to enact special executive or administrative orders, it being the intent of ss. 64.01 to 64.15, Wisconsin Statutes, (city manager plan) to separate the legislative and executive powers of city government. (Ord. 5521 §1, 1995).

* Editor's Note. Charter Ordinances 7009 and 6990 both provided as follows: "That this charter ordinance shall be initially applicable to the city council elected in April 2012, and otherwise shall not affect or apply to the current members of the Eau Claire City Council or operate to modify the aldermanic districts from which they were elected.

** Editor's Note. Charter Ordinance 5466 provided as follows: "Payment of the increased compensation provided by this amendment shall commence for all members of the city council and council president on the third Tuesday in April, 1996."

2.04.012 City Manager; qualifications, selection, removal. The Council shall engage for an indefinite term a city manager who shall have charge of the executive side of the city government and who shall be responsible for the efficiency of its administration. (Ord. 5521 §2, 1995).

2.04.013 Powers of city manager, appointments. A. The city manager shall be the chief executive officer of the city and head of the city administration and shall possess and exercise all the executive and general administrative powers imposed and conferred by general law or special charter.

B. The city manager shall have the power to create minor administrative offices and positions and to discontinue such offices and positions according to the city manager's judgment of the needs of the city.

C. The city manager shall have the power to appoint all heads of departments, all subordinate city officials, and all city employees and to remove such appointees at any time their services or the conduct of their offices becomes unsatisfactory to the city manager. (Ord. 5521 §3, 1995).

2.04.015 City officials--Election. A. Primary--when required. Pursuant to the provisions of ss. 8.11(1)(b) and 66.01, Wis. Stats., whenever the number of candidates filing nomination papers for a city office exceeds two times the number to be elected to such office, a primary to nominate candidates for the office shall be held in accordance with the provisions of the Wisconsin Statutes.

B. Not eligible for more than one office. No candidate for city office is eligible to appear on the ballot for more than one city office at the same election. (Charter Ord. 5321 §§1, 2, 1993).

2.04.020 Officers--Election. The election of officers under the form of government so adopted shall be held as provided by law upon the first Tuesday in April next succeeding the adoption of the charter ordinance codified in Sections 2.04.010 through 2.04.040, 2.12.010, Chapter 2.16, Sections 2.24.010, 2.24.020, 2.28.010, 2.32.010, 2.36.010 through 2.36.070 and Chapter 2.40. (Prior code §1.01 II).

2.04.030 Reorganization--Purpose. It is recognized that a sound organization pattern is necessary for the efficient operation of any business, public or private; and that in city government an organizational plan is needed which will fix responsibility and authority and place similar and related functions in the proper department. It is further recognized that there must be a limited span of direct control for effective administration and that departmental organization established under Section 2.04.040 provides for such control and the most efficient administrative organization. (Charter Ord. 3778 §2, 1977; Prior code §1.03 I).

2.04.040 City departments. The following departments are created:

Public works	Finance
Parks and recreation	Planning and development
Police	Human resources
Fire	City attorney

(Charter Ord. 4491 §1, 1984; Charter Ord. 3778 §3, 1977).

2.04.050 Appointment to boards and commissions. A. Except as provided under subsection B., appointments to all boards, commissions, committees or other similar entities to which appointments are made by the city council, including those established by state law or city ordinance or resolution, shall be made by the city council, following receipt of a recommendation thereon of an advisory committee comprised of the city council president and 2 members of the city council.

B. The appointment of a member of the city council to a board or commission shall not be subject to the provisions contained in subsection A. but shall be made directly by the city council. (Charter Ord. 6935 §1, 2010; Charter Ord. 5733, 1997; Charter Ord. 4705 §2, 1987).

2.04.060 Acting city manager. The city manager may, in writing filed in the office of the city clerk, appoint an acting city manager who, during the absence or disability of the city manager, shall perform the duties and responsibilities of the city manager. When so appointed, the acting city manager shall have the same powers, obligations and authority as the city manager. The acting city manager may participate as a member with full power and authority on those boards, committees, commissions or other bodies of which the city manager is a member, unless, in the opinion of the acting city manager, such participation is in conflict with the principal duties and responsibilities of the acting city manager. (Charter Ord. 4862 §2, 1988).

Chapter 2.08

CITY COUNCIL *

Sections:

- 2.08.010 Meetings--Regular--Times.**
- 2.08.020 Meetings--Special.**
- 2.08.030 Voting rules.**
- 2.08.040 Officer election.**
- 2.08.050 Meetings--Public.**
- 2.08.060 Meetings--Order.**
- 2.08.070 Votes--Called and recorded.**
- 2.08.075 Agenda.**
- 2.08.080 Order of business.**
- 2.08.090 Suspension of rules.**
- 2.08.095 Reconsideration.**
- 2.08.100 Resolutions and motions in writing.**
- 2.08.110 Resolutions--Introduction and passage.**
- 2.08.120 Ordinances--Introduction and passage.**
- 2.08.130 Ordinances--Reading.**
- 2.08.140 Ordinances--Numbering.**
- 2.08.150 Board of public works--Council to act as.**

2.08.010 Meetings--Regular--Times. A. The regular legislative meetings of the city council shall be held in the council chambers of the city hall on the second and fourth Tuesdays of each month beginning at 4:00 p.m. The council shall also meet for the purpose of holding hearings, discussions, and the conducting of other public business, on the Mondays preceding said Tuesdays beginning at 7:00 p.m. The council may meet at other public places within the city. By resolution, the date and time of any such meeting may be changed or the meeting may be canceled. The council may adjourn from time to time.

B. The provisions of subsection A shall not prevent the city council from meeting outside the limits of the city with the legislative body of another unit of government on matters of mutual interest and concern. (Ord. 4728, 1987; Ord. 4521, 1984; Ord. 3713 §1, 1977; Ord. 3699 §1, 1976; Ord. 3183 §1, 1970; Prior code §1.02(a)).

* For statutory provisions regarding the powers of the city council, its organization, quorum and meetings for a city manager form of government, see WSA 64.07; for qualification and duties of councilmen, see WSA 64.08; for provisions of general charter law regarding the composition, procedures and power of city councils, see WSA 62.11; for provisions of general charter law regarding composition of the board of public works, see WSA 62.14.

2.08.020 Meetings--Special. Special meetings may be called by the president of the council, the city manager, or any two members of the council and shall be held in the council chamber, or at such other public place within the city as determined by the council. No other business shall be transacted at a special meeting except as specified in the notice of such meeting, unless all members are present and no objection is made. Special meetings may be called only by written notice served upon each member personally, or by leaving such notice at his usual abode, or place of business, at least six hours before the meeting. Such notice shall contain a statement of the business for which the meeting is called. (Ord. 5530, 1995; Ord. 3183 §II, 1970; Prior code §1.02(b)).

2.08.030 Voting rules. A majority of the council shall constitute a quorum, and a majority vote of all the members of the council shall be necessary to adopt any ordinance or resolution, except where a greater number is required by law. (Prior code §1.02(c) 1).

2.08.040 Officer election. At the meeting of the council held on the third Tuesday in April the council shall elect a president pro tem for the ensuing year. (Ord. 5403, 1994; prior code §1.02(c) 2).

2.08.050 Meetings--Public. Except as otherwise provided by Section 14.90 of the Wisconsin Statutes, all meetings of the council, whether regular or special, shall be open to the public. (Prior code §1.02(c) 3).

2.08.060 Meetings--Order. The president shall preserve order during the sessions of the council, decide all points of order, subject to appeal to the council, and in the absence of any rule or provision of law upon any matter of business, the council shall be governed by Robert's Rules of Order. (Prior code §1.02(d)).

2.08.070 Votes--Called and recorded. An "aye" and "no" vote shall be called and recorded on the vote upon every ordinance and resolution, and may be taken upon any other matter when requested by a councilman. (Prior code §1.02(3)).

2.08.075 Agenda. An agenda shall be prepared for all meetings of the city council by the city manager. The city manager shall advise the council president, or other council member presiding over the meeting, of the items included on the agenda. An item may be placed on the agenda by the city manager, council president, or any other council member. An item recommended for placement on an agenda may be removed from the agenda by the city manager or council president. If the city manager or council president removes an item from the agenda, the item shall be restored to the agenda upon the request of two or more council members. (Ord. 5734, 1997; Ord. 5509, 1995; Ord. 5273, 1992).

2.08.080 Order of business. The order of business at all city council meetings shall, unless otherwise agreed, be as follows:

- A. Pledge of allegiance;
- B. Roll call;
- C. Approval of minutes;
- D. Consent agenda;
- E. General matters to come before the city council;
- F. Resolutions;
- G. Ordinances;
- H. Other matters that may be properly considered by the city council.

The city council may convene in closed session at any time, upon proper notice, for appropriate purposes. (Ord. 4102, 1980).

2.08.090 Suspension of rules. These rules, or any of them, may be temporarily suspended at any meeting by vote of two-thirds of the number of members present. The vote upon suspension of rules shall be by "ayes" and "noes" and shall be recorded. (Ord. 5735, 1997; Prior code §1.02(g)).

2.08.095 Reconsideration. Any member who voted with the prevailing side on any question may move for a reconsideration of the vote immediately following the vote or at the next succeeding regular meeting of the council. If a motion to reconsider is defeated, it may not again be presented to the council. (Ord. 5792, 1998).

2.08.100 Resolutions and motions in writing. All resolutions and motions introduced or made shall be in writing. (Prior code §1.02(h)).

2.08.110 Resolutions--Introduction and passage. Resolutions may be introduced and passed; and resolutions introduced at a previous meeting may be put on their passage. (Prior code §1.02(i)).

2.08.120 Ordinances--Introduction and passage. Ordinances may be introduced and ordinances introduced at a previous meeting may be put in their passage. Ordinances may be introduced and passed at the same meeting upon suspension of the rules. (Prior code §1.02(j)).

2.08.130 Ordinances--Reading. When a request for a reading is made by a member of the city council, an ordinance shall be read by the clerk upon its introduction and a second time when put for final passage. Unless such a request is made, the reading shall be dispensed with. (Prior code §1.02(k)).

2.08.140 Ordinances--Numbering. All ordinances shall be numbered consecutively. Where an ordinance would have the effect of amending, altering or adding to the code of the general ordinances of the city it shall so recite, stating the section number so affected. When practicable the city attorney shall, from time to time, insert and consolidate every general ordinance passed since the adoption of the code in its proper and appropriate place therein and shall then affix its proper section number and the same shall thereafter be referred to by said section number. Until so consolidated in the code, ordinances shall be referred to by their original numbers. (Prior code §1.02(1)).

2.08.150 Board of public works--Council to act as. The duties and powers of the board of public works shall be exercised by the city council pursuant to Section 62.14 of the Wisconsin Statutes. (Charter Ord. 3778 §4, 1977; Prior code §1.08).

Chapter 2.12

CITY ATTORNEY*

Sections:

2.12.010 Duties imposed.

2.12.020 City attorney--Suits.

2.12.010 Duties imposed. The city attorney shall perform the duties imposed upon him by statutes and ordinances. (Prior code §1.03 III (b)).

2.12.020 City attorney--Suits. A. The city attorney is authorized to bring appropriate actions against any persons, firms or corporations in the following cases without specific or further authorization to do so:

1. To collect delinquent taxes or indebtedness due and owing the city;
2. To cause warrants to be issued and served in ordinance violation cases;
3. To cause summonses to be issued for collection of forfeitures or fines in ordinance

violation cases. (Charter Ord. 3778 §5, 1977; Ord. 3204 §1, 1971; prior code §1.19)

* For provisions of general charter law regarding the city attorney, see WSA 62.09 (12).

Chapter 2.16

CITY CLERK*

Sections:

2.16.010 Duties imposed.

2.16.020 Licenses--Payment of taxes and other obligations.

2.16.040 Issuance of certain licenses and permits.

2.16.010 Duties imposed. The city clerk shall perform the duties imposed upon him or her by statutes and ordinances. (Charter Ord. 4491 §2, 1984; Prior code §1.03 III (a)).

2.16.020 Licenses--Payment of taxes and other obligations. A. The following are conditions precedent to the issuance by the city clerk or inspections division of any license or permit provided under the code of ordinances of the city of Eau Claire:

1. The payment of all personal property taxes and room taxes imposed pursuant to Ch. 3.20 of these ordinances, all forfeitures or judgments resulting from conviction for violation of any Eau Claire ordinance, except moving traffic violations, and all other claims or judgments due and owing to the city of Eau Claire at the time of the application for such license or permit from any of the following:

- a. The applicant; or
- b. A person on whose behalf the applicant files an application; or
- c. A person having an ownership interest in property upon which the license or permit

will be utilized.

2. The payment of all taxes, forfeitures, claims or judgments, as described in paragraph 1., relating to the property or business previously licensed, if the new license is granted consequent or conditionally upon the sale or transfer of the business or stock in trade or furnishings or equipment of the premises, or the sale or transfer of the ownership or control of a corporation.

B. No license or permit application shall be granted until all required payments have been made.

C. Appeal from determinations made under this section shall be made to the administrative review board under the procedures specified in ch. 1.06. (Ord. 6572 §1, 2005; Ord. 5511, 1995; Ord. 5115 §§1, 2, 1991; Ord. 5109 §1, 1990; Ord. 3757, 1977; Ord. 3303 §1, 1972; prior code §1.03 III (a)).

2.16.040 Issuance of certain licenses and permits. In addition to those licenses and permits which are required to be issued by the city clerk under the provisions of the city ordinances, the clerk shall have full power and authority to issue licenses and permits on behalf of the city-county health department. (Ord. 6840, 2008; Ord. 4552, 1985).

* For general charter law provisions regarding the city clerk, see WSA 62.09 (11).

Chapter 2.20**ELECTIONS*****Sections:****2.20.010 Elections.****2.20.020 Officials.**

2.20.010 Elections. Conduct. Elections held within the city shall be conducted in accordance with the provisions of the Wisconsin Statutes, particularly Chapters 5 through 12 thereof, except as may be otherwise provided in this chapter. (Ord. 5113, 1991; Prior code §1.10(1)).

2.20.020 Officials. A. Appointment. Pursuant to the provisions of Wisconsin Statutes s. 7.30(1), the number of inspectors for each polling place is reduced to 5. The city council may provide for the appointment of additional inspectors whenever more than one voting machine is used or where wards are combined under Wisconsin Statutes s. 515(6)(b). The resulting number of inspectors shall be an odd number, and political parties shall be represented as provided by Wisconsin Statutes s. 7.30(2). The city council may, by resolution, reduce the number of election officials to no fewer than 3, and may modify or rescind any similar previous action. The city clerk, or designee, shall have the discretion to hire election officials to work less than a full day.

B. Compensation. The compensation of election officials shall be as fixed and provided by the official pay plan of the city as adopted by the city council. (Ord. 6330, 2002; Ord. 5113, 1991; Prior code §1.10[2]).

Chapter 2.24**DEPARTMENT OF FINANCE******Sections:****2.24.010 Department created.****2.24.020 Director of finance--Appointment and duties.****2.24.030 Central equipment and stores agency-Established.****2.24.040 Agency--Purpose.****2.24.050 Agency--Jurisdiction.****2.24.060 Agency--Inventory system.****2.24.070 Agency--Officer responsible.****2.24.080 Agency-- Rental basis.****2.24.090 Agency--Rental charges.****2.24.100 Agency--Sale of equipment.****2.24.110 Agency--Equipment replacement.****2.24.120 Agency--Additional equipment purchase.****2.24.130 Agency--Operational procedures institute.****2.24.140 Agency--Accounts segregated.**

* For statutory provisions relating to the conduct of elections in general, see WSA Chs. 5-12. For the appointment and compensation of election officials, see WSA 7.03, 7.30, 7.31 and 7.32.

** For statutory authority for cities to create departments, see WSA 64.10.

2.24.010 Department created. The department of finance is created and shall be under the supervision of a director of finance. (Charter Ord. 4491, §4, 1984; Charter Ord. 3778 §7(part), 1977; Prior code §1.03 IV (part)).

2.24.020 Director of finance--Appointment and duties. A. The city manager shall appoint a director of finance whose duties may, in addition thereto, be to head one or more of said divisions.

B. The director shall supervise the department of finance and shall be responsible for the financial planning, reporting and controlling of the financial affairs of the city.

C. The supervision of one or more of the divisions of the department may be held by the same person upon the determination of the city manager.

D. The duties of the heads of each division shall be as prescribed by statutes or ordinances. Further duties shall be as fixed by the director of finance and approved by the city manager.

E. The city, pursuant to s. 66.01, Wisconsin Statutes, elects not to be governed by s. 62.09 (1)(a), Wisconsin Statutes, providing for the appointment of a comptroller and provides that the statutory duties and responsibilities of the comptroller shall be performed by the treasurer. (Charter Ord. 4491, §5 1984; Charter Ord. 3778 §7 (part), 1977; Prior code §1.03 IV (part)).

2.24.030 Central equipment and stores agency--Established. The "central equipment and stores agency" of the city is created and established. Its operational effective date shall be from January 1, 1954, and to the extent that the same has been instituted and in operation prior to the adoption of the ordinance codified in this section, is approved and affirmed. (Prior code §1.17(part)).

2.24.040 Agency--Purpose. The purpose of said agency is to provide a sound and accurate guide to the efficiency and ultimate cost to the city of its rolling, mobile, vehicular and other equipment and services. It shall be the function of such agency to acquire, maintain and furnish rolling, mobile, vehicular and other equipment and services to the several city departments for their use. It is the opinion of the council that to best make such determination a central agency shall be created, and that regulation by ordinance is essential. (Prior code §1.17(A)).

2.24.050 Agency--Jurisdiction. It is the intent of the ordinance codified in this chapter, among other things to provide, and it is so directed, that such rolling, mobile, vehicular equipment, and all other equipment incidental to the maintenance of the same now owned by the city, together with any such equipment hereafter acquired, be placed in and under the control of said agency, excluding therefrom equipment of the fire department. (Prior code §1.17(B)).

2.24.060 Agency--Inventory system. It is further directed that a centralized inventory system and operation be established. Such will consist of the purchase and storing in quantities of commodities, materials and supplies to be drawn upon by all city departments. (Prior code §1.17(C)).

2.24.070 Agency--Officer responsible. The director of public works, under the general supervision of the city manager, shall be in full and complete charge of and be held responsible for the operation of the central equipment and stores agency and all manner of things under its jurisdiction, including, but not limited to, all rolling and mobile equipment, and all equipment incidental thereto, including the building(s) or improvements wherein the rolling or mobile equipment shall be maintained or stored. (Prior code §1.17(D)).

2.24.080 Agency--Rental basis. The use of equipment or the building(s) or the improvements by any department, or any person(s) shall be on a strict rental basis per mile, hour, week or month, as may be determined and calculated to be sufficient, to provide the necessary cost of operating, repairing and maintaining the equipment and building(s) including depreciation on said equipment. (Prior code §1.17(E)).

2.24.090 Agency--Rental charges. Rental charges shall be collected or charged to the various departments of city administration, individuals, persons, agencies, or other governmental agencies for the use of the equipment, and the money or charge, when collected, shall be credited to the central equipment and stores agency, and on behalf of which fund, records will be kept by the director of finance separate and segregated, and in a fund distinct and apart from all other funds of the city. The actual segregation of cash from the cash of the general fund of the city shall be left to the discretion of the director of finance. (Charter Ord. 4491 §6, 1984; Charter Ord. 3778 §12(part), 1977; prior code §1.17(F)).

2.24.100 Agency--Sale of equipment. In the event that any of the items of equipment or things hereinbefore referred to become undesirable or uneconomical to operate or maintain, and upon the recommendation of the director of public works, the same shall be disposed of by sale, in accordance with the laws and regulations governing disposal of city-owned equipment, and any funds realized by the sale shall be credited to the fund referred to in Section 2.24.090. (Prior code §1.17(G)).

2.24.110 Agency--Equipment replacement. Replacement of rental equipment, found to be necessary, and to be used for the purpose herein specified, must be paid for from any cash balance in the fund, referred to in Section 2.24.090, not otherwise encumbered, provided such additional new equipment generally replaces equipment disposed of, or to be disposed of. It is not the intent of this section that an exact replacement be made but only that a piece of equipment be purchased to fulfill the same purpose of the proposed equipment replaced. (Prior code §1.17(H)).

2.24.120 Agency--Additional equipment purchase. Additional equipment, to be used for increasing or augmenting the number of units on hand, must be approved by the city manager and funds therefor shall be provided, by appropriation, by the city council. (Prior code §1.17 (I)).

2.24.130 Agency--Operational procedures instituted. Accounting and operational procedures of the central inventory shall be designed and installed by the director of finance and be subject to approval of the city manager. (Charter Ord. 4491 §7, 1984; Charter Ord. 3778 §12(part), 1977; prior code §1.17(K)).

2.24.140 Agency--Accounts segregated. Rental charges for each piece of equipment shall be sufficient to reimburse the central equipment and stores agency fund for all costs of operating and maintaining said equipment, including a reasonable charge for depreciation of the equipment. The director of finance shall segregate by use of the proper accounts that portion of rentals earned representing depreciation charged off. Those earnings so segregated shall be used only for the purchase of replacement equipment. (Charter Ord. 4491 §8, 1984; Charter Ord. 3778 §12 (part), 1977; prior code §1.17(L)).

Chapter 2.28

FIRE DEPARTMENT*

Sections:

2.28.010 Supervision.

2.28.020 Organization.

2.28.030 Temporary employees.

2.28.040 Salaries--Classifications.

2.28.060 Response outside of city limits.

2.28.010 Supervision. The fire department shall be under the supervision of the fire chief who shall be responsible for the protection of life and property against fire, the prevention and extinguishment of fires and the removal of fire hazards. The fire chief shall be responsible for the care and maintenance of all property and equipment of his department. (Prior code §1.13 VI).

2.28.020 Organization. The fire department shall consist of a chief appointed by the board of police and fire commissioners and such subordinate officers and positions as now are or may be created by the city council and such number of ordinary members as the city council now deems or may deem necessary for the proper and efficient operation of the department. (Prior code §3.15(a)).

2.28.030 Temporary employees. The city manager may employ additional help for temporary and special emergency cases. (Prior code §3.15(b)).

2.28.040 Salaries--Classifications. Salaries and classifications are governed by Sections 2.72.080 through 2.72.120. (Prior code §3.15(c)).

2.28.060 Response outside of city limits. The fire department is authorized to respond to fire calls outside the corporate limits of the city whenever, in the discretion of the chief of the fire department, or in his absence, the commanding officer, the safety of the city or any part thereof is not endangered by reason of an existing fire or other emergency. (Ord. 4175 §2, 1981; Prior code §3.21(c)).

* For statutory requirement that cities provide for a board of fire commissioners, see WSA 62.13(1); for provisions of general charter law regarding the terms of employment for firemen, see WSA 62.13(1-12); for provisions regarding pensions for firemen, see WSA 62.13; for provisions regarding platoon structure of fire departments, see WSA 62.13(11)(a). CROSS REFERENCE: Fire Prevention Code, see Ch. 16.32.

Chapter 2.32**PARKS AND RECREATION DEPARTMENT*****Sections:****2.32.010 Department divisions.****2.32.020 Superintendent--Created.****2.32.030 Superintendent--Responsibility.****2.32.040 Superintendent--Park maintenance.****2.32.010 Department divisions.** The department of parks and recreation shall include and cover:

A. Parks. The superintendent of the division of parks and cemeteries shall have charge of, and be responsible for, the physical properties of parks, cemeteries, playgrounds, skating rinks, athletic fields and beaches. He shall also supervise activities and functions of cemeteries.

B. Recreation. The superintendent of recreation shall have supervision of recreational functions. He shall be responsible for the care and maintenance of the property of the city in his division. (Prior code §1.03 VIII).

2.32.020 Superintendent--Created. There is established the position of superintendent of parks and cemeteries of the city. (Prior code §13.01).

2.32.030 Superintendent--Responsibility. The superintendent of parks and cemeteries shall be responsible to the city council for the supervision of parks and cemetery personnel employed by the city. (Prior code §13.02).

2.32.040 Superintendent--Park maintenance. The superintendent of parks and cemeteries shall also be responsible to the city council for the operation, maintenance and development of the parks and cemeteries of the city and for the maintenance, as distinguished from operation and development, of the playgrounds, skating rinks and bathing beaches of the city. (Prior code §13.03).

* For statutory authority for cities to create general departments of city administration, see WSA 64.10; for provisions of general charter law regarding acquisition of park land by cities, see WSA 62.22; for provisions regarding parks in the city master plan, see WSA 62.23; for provisions regarding the liability of cities for maintenance of the public domain, see WSA 27.12. CROSS REFERENCE: Public Parks, see Chapter 9.76.

Chapter 2.36

POLICE DEPARTMENT*

Sections:

- 2.36.010 Department organization.**
- 2.36.015 Oath of office.**
- 2.36.020 Temporary employees.**
- 2.36.030 Salaries--Classifications.**
- 2.36.050 Uniform allowance.**
- 2.36.070 Department supervision.**
- 2.36.080 Reserve officers.**
- 2.36.090 Airport security police.**
- 2.36.095 Fingerprinting; fee.**
- 2.36.100 Fine payments--Transmittal to treasurer.**
- 2.36.110 Disposal of abandoned property.**

2.36.010 Department organization. The police department shall consist of a chief appointed by the board of police and fire commissioners and such subordinate officers and positions as now are or may be created by the city council and such number of ordinary members as the city council now deems or may deem necessary for the proper and efficient operation of that department (Ord. 4264 §1, 1982).

2.36.015 Oath of office. Each person appointed as a police officer shall take and file the official oath as prescribed by Section 19.01, Wisconsin Statutes, before entering into the official duties of a police officer. (Ord. 4058, 1980).

2.36.020 Temporary employees. The city manager may employ additional help for temporary and special emergency cases. (Prior code §3.01(b)).

2.36.030 Salaries--Classifications. Salaries and classifications are governed by Sections 2.72.080 through 2.72.120. (Prior code §3.01(c)).

2.36.050 Uniform allowance. The city council shall annually, at the time of preparing the municipal budget, determine and by resolution prescribe the amount of uniform allowance to be made to the members of the police department. (Prior code §3.01(e)).

2.36.070 Department supervision. The police department shall be under the supervision of the police chief who shall be the commanding officer of the police force and responsible for the enforcement of law and order. He shall be responsible for the care and maintenance of all property of his division. (Prior code §1.03 VII).

* For statutory requirements for cities to create police commissions, see WSA 62.13(1); for provisions of general charter law regarding police commissions, see WSA 62.13(1-7); for provisions regarding policemen's pensions, see WSA 62.13; for statutory description of the duties of town constable, see WSA 60.35; for constable's fees, see WSA 60.351.

2.36.080 Reserve officers. A. The chief of police may appoint reserve officers pursuant to Section 62.09(1) and 64.11(4) of the Wisconsin Statutes, at an annual salary of one dollar per year.

B. The duties of the reserve officers for and within the city shall be as set forth by the chief of police and Section 60.54 and 62.09(13) of the Wisconsin Statutes. The reserve officers shall be entitled to have and retain the same fees allowed constables of towns under Section 60.55 of the Wisconsin Statutes for similar services. (Ord. 3980 §1, 1979).

2.36.090 Airport security police. A. The chief of police may appoint airport security police, upon terms and conditions approved by the chief of police.

B. The duties and powers of the airport security police shall be as set forth by the Federal Aviation Administration. (Ord. 3980 §2, 1979).

2.36.095 Fingerprinting; fees. A fee as stated in the City of Eau Claire Fees and Licenses Schedule shall be charged to persons for whom the police department performs the service of fingerprinting at the request of the person. The police department may establish rules and regulations governing such fingerprinting service, including the time and place for fingerprinting, and may limit or terminate such service. (Ord. 6363 §2, 2002; Ord. 6006, 1999).

2.36.100 Fine payments--Transmittal to treasurer. A. The police department is authorized to accept deposits of forfeitures incurred because of parking violations and other traffic violations under this code.

B. Receipts in triplicate shall be issued upon each deposit so made, one of which shall be delivered to the payor, one to the city treasurer and one shall be retained by the police department.

C. Said receipts shall be numbered consecutively and shall contain the name of the payor and pertinent data of the violation.

D. Transmittal of deposits so made shall be made to the city treasurer each day, and the amount of the same shall be credited to the general revenue fund. (Ord. 3980 §3, 1979; Prior code §3.02).

2.36.110 Disposal of abandoned property. A. Lost money or goods; notice. Except as provided in section 2.36.110 E., if a person finds \$25 or more or any goods having a value of at least \$25 but less than \$100, and if the owner of the money or goods is unknown, the finder shall, within 5 days after finding the money or goods, give a written notice of the found money or goods to the police department. The police department shall post a notice of the found money or goods in 2 public places in the city.

B. Notice and appraisal. Except as provided in section 2.36.110 E., any person finding lost goods within the city having a value of \$100 or more shall give a written notice of the found goods to the police department within 15 days after finding the goods and cause a class 2 notice under ch. 985, Wisconsin Statutes, of the found goods to be published in the county. If no person who is entitled to the goods appears to claim the goods, the finder shall, within 2 months after finding the goods and before using the goods to their injury, procure an appraisal of the goods by the police department. The appraisal shall be certified by the police chief and filed in the police department.

C. Restitution. If the owner of lost money or goods appears within 90 days after notice is given to the police department under section 2.36.110 A. or B. and makes out his or her right to the money or goods, he or she shall have restitution of the money or goods or the value of the money or goods upon his or her paying all the costs and charges on the money or goods, including a reasonable compensation to the finder for the finder's trouble.

D. Finder's rights. If no owner of lost money or goods appears within 90 days after notice is given under section 2.36.110 A. or B., the finder of the money or goods shall be the owner of the lost money or goods.

E. Money or goods found by public officials, employees or agents.

1. Notwithstanding section 2.36.110 A. and B., if an official, employee or agent of the city finds \$25 or more or any goods having a value of at least \$25 while acting within the scope of his or her official duties, employment or agency, he or she shall transfer custody of the found money or goods to the police department. The police department shall post a notice of the found money or goods in 2 public places in the city, village or town.

2. If the owner of lost money or goods appears within 90 days after the notice is posted under section 2.36.110 E. 1., and makes out his or her right to the found money or goods, he or she shall have restitution of the money or goods or the value of the money or goods upon paying all of the costs and charges on the money or goods. If no owner of lost money or goods appears within 90 days after the notice is posted under section 2.36.110 E. 1., the found money or goods shall become the property of the city. (Ord. 5689, 1997; Ord. 4680, 1986; Ord. 3980 §3, 1979; Ord. 4264, 1982; Ord. 4289, 1982; prior code §3.02).

Chapter 2.40

DEPARTMENT OF PUBLIC WORKS*

Sections:

2.40.010 Department created.

2.40.020 Public works board and director.

2.40.030 Director appointed.

2.40.040 Divisions designated.

2.40.010 Department created. The department of public works and utilities is created. (Prior code §1.03 V(part)).

2.40.020 Public works board and director. The city council shall continue to act as a board of public works. The director of public works and utilities shall have supervision of the department and shall be responsible for the functions thereof. (Prior code §1.03 V(part)).

2.40.030 Director appointed. The city manager shall appoint a director of public works and utilities whose duties may, in addition thereto, be to head one or more of the divisions in the department. (Ord. 4492 §1, 1984; Prior code §1.03 V(part)).

2.40.040 Divisions designated. A. The divisions of the department of public works shall be as established by the city manager.

B. The supervision of one or more of the divisions of the department may be held by the same person upon the determination of the city manager. (Ord. 4492 §2, 1984; Prior code §1.03 V (part)).

* For statutory authority for cities to create general department of city administration, see WSA 64.10; for provisions of general charter law regarding the board of public works, see WSA 62.14; for provisions regarding management of public works, see WSA 62.15.

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Chapter 2.48

BOARD OF REVIEW*

Sections:

2.48.010 Board composition.

2.48.020 Sessions.

2.48.030 Confidentiality of financial information.

2.48.010 Board composition. The city manager, members of the city council, city clerk and city treasurer shall constitute the board of review for the city, and it is determined that each member of the board shall receive no additional salary or compensation for the duties and services rendered and performed as a member of such board. (Prior code §1.12).

2.48.020 Sessions. The board, at its first annual meeting held as provided by law, shall meet not fewer than two hours on the first meeting day between the hours of eight a.m. and ten a.m. (Ord. 6015, 2000; Ord. 3635, 1976).

2.48.030 Confidentiality of financial information. Information about income and expenses that is provided to the assessor pursuant to s. 70.47(7)(af), Wis. Stats., or successor statute, shall be maintained as confidential by the assessor except as otherwise provided in this section. Such information may only be disclosed as follows: to persons using the information in the discharge of duties imposed by law or of the duties of their office or by order of a court. Such information is not subject to the right of inspection and copying under s. 19.35(1), Wis. Stats., or successor statute, unless a court determines that the information is inaccurate. (Ord. 6016, 2000).

Chapter 2.50

UTILITY APPEALS BOARD

Sections:

2.50.010 Establishment.

2.50.020 Membership--Organization.

2.50.030 Authority.

2.50.040 Interpretation of provisions.

2.50.050 Board decisions.

2.50.010 Establishment. There is established a utility appeals board responsible for hearing appeals from persons who make and file applications with the utility alleging that a specified premises comes within the provisions of title 14, chapters 14.12, 14.16, 14.20 and title 15, chapter 15.04. (Ord. 4673 §3, 1986).

2.50.020 Membership--Organization. A. The board shall consist of 5 members, 2 of which shall serve a 3-year term, appointed by the city manager and confirmed by the city council. The remaining members shall consist of the director of public works, director of finance and a council member. The council member shall be appointed by the city council and serve a term coinciding with the council member's term of office.

B. All meetings, transactions and records of action of the board shall be open to the public; provided that, in consideration of a case before it, the board may go into closed session for the purpose of discussion, as permitted by law.

* For statutory authority for the city council to act for the government and good order of the city, see WSA 62.11 (5); for provisions regarding a local board of review, see WSA 70.46 and 70.47.

C. The board shall adopt rules and regulations for the transaction of business. Meetings shall be held at the call of the chairman and at such other times as the board may determine. The utilities accountant shall act as secretary for the board. (Ord. 4673 §3, 1986).

2.50.030 Authority. The board, in exercising the power and authority granted by this chapter, shall act on specific appeals and applications only, except in exercising its power of interpretation as specified in section 2.50.040. Such action shall not change or have the effect of changing any rule, regulation, provision or restriction of state statute, public service commission rates and rules, or titles 14 and 15 of these ordinances, but shall affect only its application to specific cases before the board. In exercising its power of interpretation, the board may act upon application, upon written request from the city council, or upon its own motion. (Ord. 4673 §3, 1986).

2.50.040 Interpretation of provisions. The board shall interpret the words, terms, rules, regulations, provisions and restrictions of titles 14 and 15 and shall make a determination as to the application of the provisions of said titles to the premises as specified in the appeal. Prior to making such determination, the board shall provide an opportunity to the claimant to be heard and shall consider any relevant evidence relating to the claim. (Ord. 4673 §3, 1986).

2.50.050 Board decisions. The determination of the board shall govern all utility service charges thereafter levied and imposed upon the premises, and may, in the discretion of the board, provide for reasonable and appropriate adjustment of prior utility service charges imposed. All determinations of the board shall be final. (Ord. 4673 §3, 1986).

Chapter 2.52

BOARD OF HEALTH

Sections:

- 2.52.010 Definitions.**
- 2.52.020 Health department established.**
- 2.52.030 Board of health.**
- 2.52.040 Powers and duties.**
- 2.52.050 Regulations.**
- 2.52.060 Director.**
- 2.52.070 Budget; Appropriation; Fund.**

2.52.010 Definitions. In this chapter, the following words and terms shall have the following meanings, unless the context clearly requires otherwise:

- A. "Board of health" means the board of health established under s. 2.52.030.
- B. "City" means the city of Eau Claire.
- C. "City council" means the city council of the city of Eau Claire.
- D. "County" means Eau Claire county.
- E. "County board" means the Eau Claire county board.
- F. "DHSS" means the State of Wisconsin Department of Health and Social Services.
- G. "Health department" means the Eau Claire city-county health department established under s. 2.52.020. (Ord. 5392 §1, 1994).

2.52.020 Health department established. A city-county health department is hereby established as required under s. 251.02(1), Wis. Stats., to have jurisdiction within the city and county. (Ord. 5392 §1, 1994).

2.52.030 Board of health. A. The health department shall be managed by a board of health. The board of health shall have complete and exclusive control over the management and operations of the health department. The board of health shall consist of 8 members. The members shall reflect the diversity of the community. At least 3 of the members who are not elected officials or employees of the city or county shall have a demonstrated interest or competence in the field of public health or community health. The members shall be qualified and appointed as follows:

1. One member of the city council, appointed by the city council.
2. One member of the county board, appointed by the chairperson of the county board with the approval of the county board.

3. Two physicians practicing in the county. Such physicians shall be selected from a list provided by the Eau Claire County medical society, where practical and desirable. One physician shall be appointed by the chairperson of the county board with the approval of the board. The other physician shall be appointed by the city council.

4. One dentist practicing in the county. Such dentist shall be selected from a list provided by the Eau Claire County dental society, where practical and desirable. Such dentist shall be appointed by the chairperson of the county board with the approval of the board.

5. One registered nurse with experience in community health practice. Such nurse shall be jointly appointed by the city and the county.

6. Two members of ability and known to have a broad social viewpoint and a serious interest in the health protection of the community. One such member shall be appointed by the chairperson of the county board with the approval of the board. The other such member shall be appointed by the city council.

B. The term of office of the members shall be 5 years.*

C. Public notice shall be given of the annual vacancies occurring on the board of health.

D. Members of the board of health shall be residents of the city or county.

E. If any member of the board of health no longer meets the qualifications for appointment as set forth in s. 2.52.030, the position held by such member shall be vacant.

F. Any vacancy occurring on the board of health shall be filled in the same manner as the original appointment.

G. The board of health shall elect one member as president and one member as vice-president. An accurate record shall be kept of all board of health meetings. (Ord. 5392 §1, 1994).

2.52.040 Powers and duties. The board of health shall:

A. Govern the health department and assure the enforcement of state public health statutes and public health rules of the state.

B. Assure that the health department is a Level I, Level II or Level III local health department as specified in s. 251.05(1), Wis. Stats.

C. Report to the DHSS as required by rule.

D. Meet at least quarterly.

* State law requires that the members of the board of health shall have staggered terms of office. s. 251.03(4), Wis. Stats. The current members of the existing joint city-county board of health have staggered terms. It is the intent of the city council to continue the staggered terms of office as currently established for the board of health. Accordingly, this ordinance shall not affect the term of those members of the board of health currently holding office. Each member of the board of health in office at the time of enactment of this ordinance shall continue to serve until expiration of the member's term or until a vacancy sooner occurs. Upon expiration of such term or in the event of a vacancy, a successor, bearing the same qualifications as the member, shall be appointed as provided herein. If appointed following the expiration of a term, the successor shall have a term of 5 years. If appointed following a vacancy, the successor shall be appointed for the remainder of the unexpired term of office of the member vacating office.

E. Assess public health needs and advocate for the provision of reasonable and necessary public health services.

F. Develop policy and provide leadership that fosters local involvement and commitment, that emphasizes public health needs, and that advocates for equitable distribution of public health resources and complementary private activities commensurate with public health needs.

G. Assure that measures are taken to provide an environment in which individuals can be healthy.

H. Employ qualified public health professionals, such other staff as are necessary to carry out the mission of the health department, and a public health nurse to conduct general public health nursing programs under the direction of the board of health and in cooperation with the DHSS. The board of health may employ environmental health specialists, known as sanitarians, to conduct environmental programs and other public health programs not specifically designated by statute as functions of the public health nurse.

I. Appoint the director of the health department.

J. Determine the compensation for the director and employees of the health department. (Ord. 5392 §1, 1994).

2.52.050 Regulations. The board of health may adopt regulations that it considers necessary to protect and improve public health. The regulations shall be no less stringent than, and shall not conflict with, state statutes and rules and regulations of DHSS. Such regulations shall be published as a class 1 notice under ch. 985, Wis. Stats., and, unless otherwise specifically provided, shall take effect immediately following publication. (Ord. 5392 §1, 1994).

2.52.060 Director. The director of the health department shall serve as the local health officer. The director shall be a full-time employee of the health department, as required by s. 251.06(2)(a), Wis. Stats. The director shall maintain the qualifications required under s. 251.06, Wis. Stats. (Ord. 5392 §1, 1994).

2.52.070 Budget; Appropriation; Fund. A. The board of health shall annually prepare a budget of its proposed expenditures for the ensuing fiscal year and determine the proportionate cost to the county and the city on the basis of equalized valuation. A certified copy of the proposed budget, which shall include a statement of the amount required from the city and the county, shall be delivered to the county administrative coordinator and to the city manager of the city. The proposed budget shall be reviewed by a joint budget review team of county staff members selected by the administrative coordinator and city staff members selected by the city manager.

B. The appropriation to be made by the county and the city shall be determined by the county board and the city council, respectively. No part of the cost apportioned to the county shall be levied against any property in the city.

C. A city-county health department fund shall be established and maintained in the office of the treasurer of the city, as determined by the board of health. The county and the city shall each make an annual payment into said fund, the share of the county and the city as determined and appropriated by the city and the county. (Ord. 5392 §1, 1994).

Chapter 2.54

DEPARTMENT OF COMMUNITY DEVELOPMENT

Sections:

2.54.010 Department created.

2.54.020 Appointment--Duties.

2.54.010 Department created. There is created a department of community development under the supervision of a director of community development. (Ord. 5004 §1, 1989; Ord. 4186 §2, 1981; Charter Ord. 3778 §9(part), 1977).

2.54.020 Appointment--Duties. The city manager shall appoint a director of community development who shall be in charge of the planning function for the city. The director shall be responsible for federal and state funding of projects for the development of the city. The director shall provide the staff support for the Eau Claire Housing Authority and shall perform such other duties as may be assigned from time to time by the city manager. (Ord. 5004 §1, 1989; Ord. 4186 §3, 1981; Charter Ord. 3778 §9(part), 1977).

Chapter 2.56**PLAN COMMISSION****Sections:**

- 2.56.010 Commission created.**
- 2.56.020 Composition.**
- 2.56.025 Chairperson--Election.**
- 2.56.030 Members--Appointments.**
- 2.56.040 Filling of vacancies.**
- 2.56.050 Compensation--Oath.**
- 2.56.060 Powers and duties.**
- 2.56.070 Organization.**
- 2.56.080 Experts--Temporary staff.**
- 2.56.090 Rules adoption.**

2.56.010 Commission created. A city plan commission for the city of Eau Claire is created. (Prior code §1.21A).

2.56.020 Composition. The city plan commission shall consist of two members of the city council and seven citizens. Citizen members shall be persons of recognized experience and qualifications. (Charter Ord. 5370 §2, 1993; Charter Ord. 4708 §2, 1987; Prior code §1.21B 1).

2.56.025 Chairperson--Election. At the opening of the first meeting in May, the plan commission shall elect from its membership a chairperson and a vice-chairperson. (Charter Ord. 5370 §3, 1993; Charter Ord. 4708 §3, 1987).

2.56.030 Members--Appointments. A. The council members of the commission shall be elected by a two-thirds vote of the common council during each April for a term of office commencing on May 1 to coincide with the term of office on the city council, but not to exceed one year.

B. Three citizen members shall be recommended by the advisory committee on appointments and confirmed by the city council upon the creation of the commission to hold office for a period ending one, two and three years, respectively, from the succeeding first day of May, and thereafter annually during April one such member shall be appointed for a term of three years.

C. Four additional citizen members shall be recommended by the advisory committee on appointments and confirmed by the city council to hold office for a period ending one year from the succeeding first day of May, and thereafter annually during the month of April. Should a park board be created at any time, or a city engineer appointed, the president of such board or such engineer shall succeed to a place on the commission when the term of one of the citizen members, designated by the city council, expires. (Charter Ord. 6935, 2010; Charter Ord. 5370 §4, 1993; Prior code §1.21 B 2, 3, 4).

2.56.040 Filling of vacancies. Vacancies other than ex officio shall be filled by appointment for the residue of the unexpired term in the same manner as appointment for the full term. (Prior code §1.21 C).

2.56.050 Compensation--Oath. No compensation shall be paid for service on the commission, except that citizen members of the commission may be reimbursed for their actual and necessary expenses incurred in the performance of their duties, if the same is approved by the city council. Citizen members shall take the official oath required by Section 19.01 of the statutes, which shall be filed with the city clerk. (Ord. 4130, 1980; Prior code §1.21 D).

2.56.060 Powers and duties. The plan commission shall have the powers and duties prescribed in Section 62.23 of the statutes and all legislative enactments, amendatory thereof or supplementary thereto, and such other powers and duties as shall be vested in them from time to time by law or the city council. (Prior code §1.21 E).

2.56.070 Organization. As soon as all members of the first commission have been appointed the city clerk shall give each member a written notice of the appointment, and thereon shall fix the time and place of the first meeting which shall be no less than five nor more than ten days thereafter. The commission shall elect a vice-chairman and a secretary, and shall keep a written record of its proceedings to include all actions taken, a copy of which shall be filed with the city clerk. The records of the commission shall be public records. Five members shall constitute a quorum, and all legislative actions shall require the affirmative approval of a majority of the members. In matters coming before the plan commission where the commission performs an advisory function, the vote of a majority of a quorum shall be sufficient to make a report or recommendation. (Ord. 4772, 1987; Prior code §2.21 F).

2.56.080 Experts--Temporary staff. The plan commission shall have power to employ experts and such staff as may be necessary, and to pay for their services and such other expenses as may be necessary and proper, within the limits of the budget established by the city council, or placed at its disposal through gift, and subject to any ordinance or resolution enacted by the city council. As far as possible the commission shall utilize the services of existing city officials and employees. (Prior code §1.21 G).

2.56.090 Rules adoption. The plan commission is authorized to adopt rules governing its own proceedings. (Prior code §1.21 H).

Chapter 2.60

TRANSIT COMMISSION

Sections:

2.60.010 Commission created.

2.60.020 Membership--Terms--Qualifications.

2.60.030 Powers and duties.

2.60.040 Meetings.

2.60.010 Commission created. Pursuant to the provisions of Wisconsin Statutes Section 66.1021 (1) a transit commission, to be known as the "Eau Claire transit commission", is created for the establishment, maintenance and operation of a comprehensive unified local transportation system, as defined by Wisconsin Statutes Section 66.1021 (3)(a), for the service of the citizens of Eau Claire. (Ord. 3402 §I, 1973; Prior code §1.27(1)).

2.60.020 Membership--Terms--Qualifications. The transit commission shall consist of seven members, six shall be recommended by the advisory committee on appointments and confirmed by the city council, and one which shall be a member of the city council. The commissioners shall elect a chairperson, vice-chairperson and secretary. Except for the city council member, the term of office of each member shall be three years. The term of office of the city council member shall be one year, commencing on the third Tuesday in April. No person holding stocks or bonds in any corporation subject to the jurisdiction of the transit commission or who is in any other manner directly or indirectly pecuniarily interested in any other corporation, shall be a member of, or employed by, the transit commission. (Charter Ord. 6935, 2010; Charter Ord. 6043 §2, 2000; Charter Ord. 4813 §2, 1988; Ord. 3402 §I, 1973; Prior code §1.27 (2)).

2.60.030 Powers and duties. The transit commission shall have such powers and duties as provided by Wisconsin Statutes Section 66.1021 and any other provisions of the Wisconsin Statutes relating thereto. (Ord. 3402 §I, 1973; Prior code §1.27(3)).

2.60.040 Meetings. The transit commission shall hold regular meetings as may be provided by its by-laws and may hold special meetings on the call of the chairperson, by any three commissioners, or at the request of the city council. (Charter Ord. 6043 §3, 2000; Ord. 3402 §I, 1973; Prior code §1.27 (4)).

Chapter 2.64

CITY WATERWAYS AND PARKS COMMISSION

Sections:

2.64.010 Creation.

2.64.020 Purpose and intent.

2.64.030 Composition.

2.64.040 Procedure.

2.64.050 Duties and responsibilities.

2.64.060 Meetings.

2.64.010 Creation. A waterways and parks commission for the city of Eau Claire is hereby created. (Ord. 4700, 1987; Ord. 3388 §I, 1973; Prior code §1.23 A).

2.64.020 Purpose and intent. It is hereby declared a matter of public policy that the protection, enhancement, and promotion of the city's waterways and parks is a public necessity and is required in the interest of the health, prosperity, safety, and welfare of the community. The purpose of this chapter is to:

A. Promote the appreciation of the city's waterways and parks and improve the community's perception of these areas as a valuable aesthetic, environmental, recreational, and economic resource;

B. Stimulate and guide public and private development and revitalization along the waterways in a way that contributes to the aesthetic and environmental enhancement of these areas while improving the community's economic vitality;

C. Promote and plan for the development of the waterway corridors and city parks to their fullest recreational potential;

D. Protect and enhance the abundance and diversity of the natural resources within the waterway corridor and park areas of the city of Eau Claire. (Ord. 4700, 1987).

2.64.030 Composition. A. The waterways and parks commission shall consist of 12 members, 10 of which shall be recommended by the advisory committee on appointments and confirmed by the city council. The remaining two members shall be council members, each appointed by the city council to a term coinciding with his or her term of office.

B. The members of the commission shall elect to serve a 1-year term, a chairman, vice-chairman, secretary and other officers as may be necessary from among their membership at the first meeting of the commission after all appointments have been made. Said officers shall thereafter be elected for a 1-year term each year at the first meeting after new appointments to the commission have been made.

C. The directors of parks and recreation, planning and development and public works, or their designees, shall serve as ex-officio, non-voting members of the commission. (Charter Ord. 6935, 2010; Ord. 4700, 1987).

2.64.040 Procedure. A majority of the commission shall constitute a quorum. The commission shall adopt such by-laws as appropriate to further govern its proceedings. (Ord. 4700, 1987).

2.64.050 Duties and responsibilities. The commission shall have the following duties and responsibilities:

- A. Promote community awareness of Eau Claire's waterways, parks and greenways;
- B. Advise the plan commission and city council on appropriate zoning regulations for waterway-, parkland- and greenway-related development;
- C. Initiate guidelines for waterway-, parkland- and greenway-related development;
- D. Advise the plan commission and city council on waterway, parkland and greenway policies to be incorporated into the city comprehensive plan;
- E. Review and make formal recommendations prior to the plan commission, city council or zoning board of appeals review of all development proposals for property abutting parkland, greenways, as defined in the comprehensive plan, and the Chippewa River, Eau Claire River, Half Moon Lake, or such other waterways or water corridors as may be designated by the city council. Such review shall be mandatory and shall include proposed public capital improvements that affect parks and waterways and greenways;
- F. In its discretion, to initiate and coordinate fund raising and special events to support and publicize improvements for the waterways, waterway corridors, parks, greenways or related trail systems;
- G. Advise the city council on priorities for public water investment and economic revitalization along the waterways;
- H. Review and comment on matters pertaining to the development and policies of city parks and parks and recreation programs and review of matters relating to parks, waterways or green spaces which would be acted on by the city council, excluding consent agenda items;
- I. Advise the city council on public safety and security policies and procedures in all public park, greenway and waterway areas. (Ord. 5931, 1999; Ord. 4700, 1987).

2.64.060 Meetings. The commission shall hold regular meetings as may be provided by its by-laws, and may hold special meetings on the call of the chairman or at the request of the city council. (Ord. 4700, 1987).

Chapter 2.65**LANDMARKS****Sections:**

- 2.65.010 Purpose and intent.**
- 2.65.020 Definitions.**
- 2.65.030 Landmarks commission composition and terms.**
- 2.65.040 Powers and duties of the landmarks commission.**
- 2.65.050 Procedures for designation of landmarks, landmark sites and historic districts.**
- 2.65.060 Conformance with regulations.**
- 2.65.070 Maintenance of landmarks, landmark sites and structures within historic districts.**
- 2.65.080 Conditions dangerous to life, health or property.**
- 2.65.090 Appeals of landmarks commission actions.**
- 2.65.100 Transitional provision.**
- 2.65.110 Penalty for violation.**

2.65.010 Purpose and intent. It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements of special character or special historical interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare of the people. The purpose of this chapter is to:

- A. Effect and accomplish the protection, enhancement, and perpetuation of landmarks and historic districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history.
- B. Safeguard the city's historic and cultural heritage, as embodied and reflected in such landmarks and historic districts.
- C. Stabilize and improve property values.
- D. Foster civic pride in the beauty and noble accomplishments of the past.
- E. Protect and enhance the city's attractions to residents, tourists and visitors.
- F. Serve as a support and stimulus to business and industry.
- G. Strengthen the economy of the city.
- H. Promote the use of landmarks and historic districts for the education, pleasure, and welfare of the people of the city. (Ord. 4293, 1982).

- 2.65.020 Definitions.** In this section, unless the context clearly requires otherwise:
- A. "Commission" means the Landmarks Commission created under this chapter.
 - B. "Exterior Alteration" means any modification of exterior dimensions of a structure including the attachment of appurtenances such as stairs, fire escapes, chimneys, carports and other similar construction or the modification of materials including, but not limited to roofing, siding, masonry, wood trim, windows or signs. Normal maintenance of existing exterior features or materials including cleaning, painting and replacement shall not be considered exterior alterations.
 - C. "Historic District" is an area that has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation and which has been designated as a district pursuant to the articles of this chapter. Each property within a historic district may be assigned one of the following classifications in the district plan to identify its architectural and historic significance in relation to the other properties within the district:
 - 1. "Pivotal" properties are those which are historically or architecturally significant and which are eligible to qualify as landmarks under this chapter.

2. "Contributing" properties are those which are historically or architecturally significant through their relationship to other historically or architecturally significant properties in a particular area. These properties have maintained most of their historical and architectural characteristics and complement or add to the character of the district. A contributing property may also be a simpler architectural example of a structure which is individually eligible to qualify as landmarks under this chapter.

3. "Non-contributing" properties are those which have either lost most of their historical and architectural significance because of extensive exterior alteration which was not appropriate to the architecture of the property or are of a more recent architectural or historical period than the majority of properties in the district. A non-contributing property may still retain some original architectural detailing or characteristics. Such properties may be included within a historical district if the Commission finds that the alteration or razing of such a property could negatively affect adjacent properties or have an adverse effect on the district; or if such property is surrounded by pivotal or contributing properties.

D. "Improvement" means any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment.

E. "Improvement Parcel" is the unit of property which includes a physical betterment constituting an improvement and the land embracing the site thereof, and is treated as a single entity for the purpose of levying real estate taxes. Provided, however, that the term "improvement parcel" shall also include any unimproved area of land which is treated as a single entity for such tax purposes.

F. "Landmark" means any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation and which has been designated as a landmark pursuant to the provisions of this chapter.

G. "Landmark Site" means any parcel of land of historic significance due to a substantial value in tracing the history of aboriginal man, or upon which a historic event has occurred, and which has been designated as a landmark site under this section, or an improvement parcel, or part thereof, on which is situated a landmark and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the landmark is situated. (Ord. 5456, §1, 1994; Ord. 4293, 1982).

2.65.030 Landmarks commission composition and terms. A Landmarks Commission is hereby created, consisting of 7 members including a registered architect; a historian qualified in the field of historic preservation; a licensed real estate broker or salesperson; a City Council member and three citizen members. Each member shall have, to the highest extent practicable, a known interest in landmarks preservation. The Commissioners shall be recommended by the advisory committee on appointments and confirmed by the city council. Of the initial members so appointed, two shall serve a term of one year, two shall serve a term of two years, and three shall serve a term of three years. Thereafter, the term for each member shall be three years. (Charter Ord. 6935, 2010; Ord. 4293, 1982).

2.65.040 Powers and duties of the landmarks commission.

A. Designation recommendations. The Commission shall have the power, subject to the provisions of Section 2.65.050 of this chapter, to designate landmarks, landmark sites and historic districts within the city limits. Such designation shall be made based on criteria specified in Section 2.65.050. Once designated by the Commission, such landmarks, landmark sites and historic districts shall be subject to all the provisions of this chapter.

B. Regulation of construction, reconstruction and exterior alteration to landmarks, landmark sites, and structures within historic districts.

1. Procedure. All applications for a building permit for exterior alterations, reconstruction or new construction to landmarks, landmark sites or structures within a historic district shall be transmitted to the Commission for issuance of a certificate of appropriateness prior to issuance of a building permit. The applicant shall submit a detailed description of the proposed construction, reconstruction or alteration, together with any architectural drawings, if those services have been utilized by the applicant, and a sufficient description of the construction or alteration and use to enable the Commission to determine what the final appearance of the structure will be.

Upon receiving an application for construction, reconstruction, or exterior alteration, the Commission shall schedule a review of the application by the Commission within 30 days. In making its determination on the application, the Commission shall consider or may give decisive weight to any or all of the criteria listed under Section 2.65.040 (B)(2) and any such policies as may be adopted by the City Council or Commission that would further clarify such criteria or the standards and guidelines contained in a district plan.

Following the hearing on the application, the Commission shall act within 30 days. The Commission may approve, deny or condition issuance of the certificate of appropriateness on making changes in the submitted plan. The Commission shall provide the applicant with the following:

a. If the certificate of appropriateness is granted or approved with conditions, a specific list of all actions required by the applicant in order to comply with the certificate of appropriateness, together with the criteria upon which such list is based, or

b. If the certificate of appropriateness is denied, the reasons for denial and the specific criteria upon which the denial is based.

All actions taken by the Landmarks Commission shall be recorded in the minutes of the Commission and shall state the reasons for the action taken. Notice of the granting, approval with conditions, or denial of a certificate of appropriateness shall be mailed to the owner of the subject property pursuant to Section 2.65.090 within five days after such action. A copy of the final approval plan shall be attached to the building permit. It shall be the responsibility of the building inspector to assure that actual development conforms to the plans approved by the Commission.

The Commission shall appoint a designee(s) to review and approve applications for certificates of appropriateness that will have no effect on the exterior architectural appearance of the building. If the designee(s) make a determination that the proposed application will have no effect on the exterior architectural appearance of the building, the designee(s) may approve the certificate of appropriateness without forwarding such application to the Landmark Commission for review. The designee(s) shall report any such action to the Landmarks Commission at the Commission's next regularly scheduled meeting. If the designee(s) determines that such application may have an effect on the exterior architectural appearance of the building, such application shall be forwarded to the Commission for review as provided above.

2. Criteria for review of construction, reconstruction, or exterior alteration to landmarks, landmark sites and structures in historic districts.

a. "The Secretary of the Interior's Standards for Rehabilitation" shall apply to construction, reconstruction and exterior alterations. These standards are as follows:

1) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its intended purpose.

2) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

3) All buildings, structures, and sites should be recognized as products of their own time. Alterations which have no historical basis and which seek to create an earlier appearance shall be discouraged.

4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance should be recognized and respected.

5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site, shall be treated with sensitivity.

6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

7) The surface cleaning of structures should be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

8) Every reasonable effort should be made to protect and preserve archeological resources affected by, or adjacent to, any project.

9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property neighborhood or environment.

10) Whenever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed, in the future, the essential form and integrity of the structure would be unimpaired.

b. For structures located within an historic district, the standards and guidelines adopted in district plans pursuant to Section 2.65.050 (B) shall apply, in addition to the criteria listed above. The significance assigned a property in a district plan as pivotal, contributing or non-contributing shall be given decisive weight by the Commission when the Commission applies the district standards and guidelines to a proposed project. The Commission shall require greater conformance to such standards and guidelines for properties which are historically or architecturally significant and which contribute to or complement the district.

For properties identified as non-contributing in the district plan, the guidelines contained in such district plan shall be waived. The Commission shall review exterior alterations, reconstruction or additions to such non-contributing structures using the following criteria:

1) Any such work shall retain or be compatible with the original or existing door and window openings and dimensions and features such as porches and dormers which are visible from the street.

2) Additions shall not extend closer to a property line abutting a street, unless the setback of the addition is compatible with the setbacks of the existing buildings in the immediate area.

3) New siding is acceptable which imitates the width and pattern of the original or existing siding.

4) Second exit platforms and fire escapes shall not be placed on the front facade, whenever possible. Such structures placed on any facade which are visible from the street must be designed to complement the architectural integrity of the building.

5) Additions shall not exceed the height of the existing structure with the roof design of such addition consistent with the roof design of the roof of the existing structure.

c. For new construction within an historic district, the following criteria shall apply:

1) The mass, volume, and setback of proposed structures should appear to be compatible with existing buildings in the immediate area.

2) The facade of new or remodeled structures should maintain a compatible relationship with those of existing structures in terms of: window sill or header lines; proportion of window and door openings; horizontal or vertical emphasis of major building elements; and extent of architectural detail.

3) The building materials and colors used should complement and be compatible with other buildings in the immediate area.

4) The sizing, design and placement of signs should fit the building and the adjacent structures.

5) All landscaping and parking provisions should complement and be compatible with improvements in the immediate area.

C. Regulation of demolition of landmarks and structures within historic districts.

1. Procedure. No person in charge of a landmark, or improvement in an historic district, shall be granted a permit to demolish such property without issuance of a certificate of appropriateness by the Commission. At such time as a property owner applies to the City for a permit to demolish such property, such application shall be filed with the Commission.

In determining whether to issue a certificate of appropriateness for any demolition, the Commission shall consider or may give decisive weight to any or all of the criteria listed under Section 2.65.040(C)(2).

Upon study of the application, the Commission may refuse to grant a certificate of appropriateness for a period of up to 18 months from the time of such application, during which time the Commission and the applicant shall undertake serious and continuing discussions for the purpose of finding a method to save such property.

At the end of this 18 month period, if no mutually agreeable method of saving the subject property bearing a reasonable prospect of eventual success is underway, or if no funds from any governmental unit or nonprofit organization to preserve the subject property have been received or granted, the Commission shall issue a certificate of appropriateness.

2. Criteria for reviewing demolitions.

a. Whether the building or structure is of such architectural or historic significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the City;

b. Whether the building or structure, although not itself a landmark building, contributes to the distinctive architectural or historical character of the historic district as a whole and therefore should be preserved for the benefit of the people of the City;

c. Whether the building or structure is of such old and unusual or uncommon design, texture or material that it could not be reproduced or be reproduced only with great difficulty or expense;

d. Whether retention of the building or structure would promote the general welfare of the people of the City by encouraging study of American history, architecture and design or by developing an understanding of American culture and heritage;

e. Whether the building or structure is in such a deteriorated condition that it is not structurally or economically feasible to preserve or restore it, provided that any hardship or difficulty claimed by the owner which is self-created or which is the result of any failure to maintain the property in good repair cannot qualify as a basis for the issuance of a certificate of appropriateness;

f. Whether any new structure proposed to be constructed or change in use proposed to be made is compatible with the buildings and environment of the district in which the subject property is located.

D. Recognition of landmark, landmark sites or historic districts. At such time as a landmark, landmark site or historic district has been properly designated in accordance with Section 2.65.050, the Commission may cause to be prepared and erected on such property at City expense, a suitable plaque declaring that such property is a landmark, landmark site or historic district. Such plaque shall be so placed as to be easily visible to passing pedestrians and shall indicate the dates of construction and other information deemed proper by the Commission.

E. Rescission of landmark designation.

1. Any person or group listed as the owner of record of a landmark or landmark site who can demonstrate to the Commission that by virtue of such designation he or she is unable to find a buyer willing to preserve such landmark or landmark site, even though such person has made reasonable attempts in good faith to find and attract such a buyer, may petition the Commission for a rescission of its designation. Following the filing of such petition with the Commission, the owner and the Commission shall work together in good faith to locate a buyer for the subject property who is willing to abide by its designation.

If, at the end of a period not exceeding 6 months from the date of such petition, no such buyer can be found, and if the owner still desires to obtain such rescission, the Commission shall rescind the designation of the subject property.

2. If for any reason a landmark property loses the character that originally caused its designation, the landmark status of the property can be rescinded by the Commission. Likewise, if any portion of an historic district or any entire historic district loses the character that caused its designation, landmark status of that part of the district or of the entire district can be rescinded by the Commission.

F. Other duties. In addition to those duties already specified in this section, the Commission shall:

1. Cooperate with the Wisconsin State Historic Preservation Officer and the State Historic Preservation Review Board in attempting to include on the National Register of Historic Places such properties hereunder designated as landmarks or landmark sites, or historic districts.

2. Work for the continuing education of the citizens about the historic heritage of this City and the landmarks and landmark sites designated under this chapter.

3. As it deems advisable, solicit and receive funds for the purpose of landmarks preservation in the City. Funds for such purpose shall be placed in a special City account. (Ord. 5456, §2, 1994; Ord. 4293, 1982).

2.65.050 Procedure for designation of landmarks, landmark sites and historic districts. A. Designation of landmark or landmark site. The Commission may, after notice and public hearing, designate landmarks or landmark sites, or both, subject to the provisions of this subsection. At least 10 days prior to the hearing on these actions, the Commission shall notify the owners of record of the subject property and property in whole or in part situated within 200 feet of the boundaries of the subject property of the proposed action. The owners of record of the subject property shall be provided the opportunity to confer with the Commission prior to final action by the Commission on the proposed action.

The Commission shall also notify the City Department of Public Works, Department of Community Development, Parks and Recreation Department, Plan Commission and City Council. Each such department or board shall respond to the Commission within 30 days of notification with its comments on the proposed action.

Following proper notification, the Commission shall conduct a public hearing. In addition to hearing from notified persons, the Commission may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary.

Within 30 days of the close of the public hearing, the Commission shall approve or reject the proposed designation. In making its designation, the Commission shall find that the subject property meets at least one of the following criteria:

1. Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state or community; or
2. Is identified with historic personages or with important events in national, state or local history; or
3. Embodies the distinguishing characteristics of an architectural type, inherently valuable for the study of a particular period, style, method of construction or of indigenous materials or craftsmanship; or
4. Represents the notable work of a master builder, designer or architect whose individual genius influenced a particular age.

Following the action of the Commission, the City Clerk shall cause the designation to be recorded, at City expense, in the County Register of Deeds office.

B. Creation of historic districts. For preservation purposes, the Commission may recommend geographically defined areas within the City of Eau Claire to be designated as historic districts and shall, with the assistance of the Department of Community Development, prepare a historic preservation plan for each area. An historic district may be recommended for any geographic area of particular historic, architectural, or cultural significance to the City of Eau Claire which meets at least one of the following criteria:

1. Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state or community; or
2. Is identified with historic personages or with important events in national, state or local history; or
3. Embodies the distinguishing characteristics of particular architectural types inherently valuable for the study of a period or periods styles, methods of construction, indigenous materials or craftsmanship; or
4. Is representative of the notable works of master builders, designers or architects who influenced their age.

Each historic preservation plan prepared for or by the Landmarks Commission shall include a cultural and architectural analysis supporting the historic significance of the area, specific standards and guidelines for development within the district, a statement of preservation objectives, and a map of the proposed district boundaries.

Upon preparation of the historic preservation plan for the proposed district, the Commission shall hold a public hearing. Notice of the time, place and purpose of the public hearing shall be sent by the City Clerk to the owners of record of property in the proposed district and situated in whole or in part within 200 feet of the boundaries of the proposed historic district. Said notice is to be sent at least 10 days, but not more than 30 days, prior to the date of the public hearing. Within 30 days following the public hearing, the Commission shall submit its recommendation and report to the City Council whether to designate, reject or withhold action on the proposed district.

Upon receipt of the Commission's recommendation and report, the City Council shall hold a public hearing concerning the proposed district. The City Council shall designate or reject the proposed district, or may consider amendments, changes, additions, or departures deemed advisable to the proposed district. If the Council makes such changes, it shall refer the proposed district back to the Landmarks Commission for rehearing and notice shall again be given as provided above. Council designation of a proposed district or adding of property to an existing district shall require a two-thirds favorable vote of the entire membership of the City Council.

Upon designation of a historic district, the City Clerk shall cause a document of such fact to be recorded, at City expense, in the County Register of Deeds Office, to be incorporated within the record title of each property which is included within the historic district.

C. Notice. Pursuant to the designation of property as a landmark or landmark site or its recommendation for inclusion in a historic district, the owner of record of the property shall be given a copy of this chapter and information containing a summary of the duties and responsibilities of a property owner under this chapter. (Ord. 5456, §3, 1994; Ord. 5218, §§1,2,3, 1992; Ord. 4293, 1982).

2.65.060 Conformance with regulations. A. Every person in charge of any landmark, landmark site or improvement in a historic district shall maintain same or cause it to be maintained in a condition consistent with the provisions of this chapter.

B. The City Manager is authorized to appoint staff to enforce this chapter. The duties of the inspection officer shall include periodic inspection at intervals provided by the City Manager of designated landmarks, landmark sites and historic districts. These inspections may include physical entry upon the property and improvements with the permission of the owner, to insure that interior alterations or maintenance will not jeopardize the exterior appearance or structural stability of the improvement. If an owner refuses permission for the enforcement officer to enter for purposes of inspection, the inspection officer may obtain a warrant of entry pursuant to Wisconsin Statutes Section 66.122 and take any other reasonable measures to further enforcement of this chapter. (Ord. 4293, 1982).

2.65.070 Maintenance of landmarks, landmark sites and structures within historic districts. Every person in charge of an improvement on a landmark site or in a historic district shall keep in good repair all of the exterior portions of such improvements and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to fall into a state of disrepair. this provision shall be in addition to all other provisions of law requiring such improvements to be kept in good repair.

Insofar as they are applicable to a landmark, landmark site or improvement in a historic district, any provision of the Plumbing Code; the Housing Maintenance and Occupancy Code; Building Code; Heating, Ventilating and Air Conditioning Code; and Sign Code regulations of the Code of Ordinances of the City of Eau Claire may be varied or waived, on application, by the appropriate board having such jurisdiction over such chapter or, in the absence of such board, by the building inspector, provided such variance or waiver does not endanger public health or safety. (Ord. 4293, 1982).

2.65.080 Conditions dangerous to life, health or property. Nothing contained in this chapter shall prohibit the making of necessary construction, reconstruction, alteration or demolition of any improvement on a landmark site or in a historic district pursuant to order of any governmental agency or pursuant to any court judgment, for the purpose of remedying emergency conditions determined to be dangerous to life, health or property. In such cases, no approval from the Commission shall be required. (Ord. 4293, 1982).

2.65.090 Appeals of landmarks commission actions. The Landmarks Commission shall notify by certified mail the owner(s) of record of any subject property of an action of the Commission relating to that property. The notice shall include notification of the 30 day appeal period, a listing and clarification of the specific appeal criteria, and a description of the appeal process and hearing. The owner(s) of record of the property may appeal an action of the Landmarks Commission relating to the designation of a landmark, landmark site, or historic district, the regulation of construction, reconstruction or exterior alteration, regulation of demolition, or the issuance of a certificate of appropriateness. An appeal may be initiated by filing a petition to appeal, specifying the grounds for such an appeal, with the City Clerk within 30 days of the date on which the final decision of the Commission is made. The City Clerk shall file the petition to appeal with the City Council, and a public hearing with the City Council shall be scheduled. After a public hearing, the City Council may, by a favorable vote of a majority of the Council, reverse or modify the decision of the Commission. In modifying or reversing a decision of the Commission, the City Council shall make one of the following findings:

A. That, owing to special conditions, the decision of the Commission would cause serious hardship to the property owner or preclude reasonable use of the property. Self-created hardship or expectation of increased economic return shall not be the basis for modifying or reversing a decision of the Commission; or

B. That, in an action of the Landmarks Commission relating to the regulation of construction, reconstruction or exterior alteration, regulation of demolition, or the issuance of a certificate of appropriateness, the property owner's proposed external alterations, reconstruction or new construction materially or substantially complies with the standards for rehabilitation set forth in s. 2.65.040 B.2.a. and b.; or

C. That, in an action of the Landmarks Commission relating to the designation of a landmark, landmark site or historic district, the property does not meet the criteria set forth in s. 2.65.050 A. (Ord. 5456, §4, 1994; Ord. 4293, 1982).

2.65.100 Transitional provision. A. All actions taken or designations made by the Landmarks Commission prior to the effective date of this ordinance, are determined to be legal, valid and binding. Any landmark or landmark site designation which has been initiated but not completed prior to the effective date of this ordinance shall continue to be considered and acted upon in accordance with the provisions of prior chapter 2.65, insofar as the same is applicable, and the provisions of said chapter shall survive this amendment for such purpose. All other actions taken or commenced and all designations initiated after the effective date of this ordinance shall be in accordance with the provisions of this ordinance. All designated landmarks or landmark sites shall comply with the provisions of this ordinance.

B. The adoption of this ordinance shall not result in the automatic designation as a landmark or landmark site or inclusion in a historic district of any property not so designated or included on the effective date of this ordinance (November 28, 1994). No such property shall be designated as a landmark or landmark site or included in a historic district without compliance with the standards and procedures as provided in this chapter. (Ord. 5456, §5, 1994; Ord. 4293, 1982).

2.65.110 Penalty for violation. Any person violating any provision of this chapter shall be subject to a forfeiture of not more than 200 dollars for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate offense. (Ord. 4293, 1982).

Chapter 2.66**BICYCLE/PEDESTRIAN ADVISORY COMMISSION****Sections;****2.66.010 Creation.****2.66.020 Purpose and intent.****2.66.030 Composition.****2.66.040 Procedure.****2.66.050 Duties and responsibilities.****2.66.060 Meetings.**

2.66.010 Creation. A bicycle/pedestrian advisory commission for the city of Eau Claire is hereby created. (Ord. 6692, 2006).

2.66.020 Purpose and intent. It is hereby declared a matter of public policy that the protection, improvement, and enhancement of the city transportation system to ensure safe and efficient movement of people and goods, and provide a variety of mode choices, while enhancing neighborhood livability and resident quality of life, is a public necessity and is required in the interest of the health, prosperity, safety, and welfare of the community. The purpose of this chapter is to:

A. Provide substantive advice and guidance to the city council on bicycle and pedestrian related issues to help the community achieve the objectives outlined in the comprehensive plan;

B. Provide a balanced and efficient transportation network that offers viable alternatives to driving and maximizes the use of existing investment;

C. Improve pedestrian connections to create a continuous and seamless pedestrian system;

D. Enhance the pedestrian environment to create a more walkable community;

E. Continue to build a connected bicycle route and trail network that is viable, convenient, safe, and secure; and

F. Encourage both utilitarian and recreational bicycling. (Ord. 6692, 2006).

2.66.030 Composition. A. The bicycle/pedestrian advisory commission shall consist of ten (10) members, which shall be recommended by the advisory committee on appointments and confirmed by the city council.

B. To the extent feasible, both transportation and recreational interests shall be represented, including, but not limited to bicycling organizations, organizations concerned with education and safety, business organizations, private citizens concerned with non-motorized transportation such as commuting, persons with disabilities, the aging community, recreational enthusiasts, and students.

C. The members of the commission shall elect to serve a one (1) year term a chair, vice-chair, secretary, and other officers as may be necessary from among the membership at the first meeting of the commission, after all appointments have been made. Said officers shall thereafter be elected for a one (1) year term, each year, at the first meeting after new appointments to the commission have been made.

D. The directors of public works, parks and recreation, and community development, or their designees, shall serve as ex-officio, non-voting members and support staff to the commission. (Ord. 6692, 2006).

2.66.040 Procedure. A majority of the commission shall constitute a quorum. The commission shall adopt such by-laws as appropriate to further govern its proceedings. (Ord. 6692, 2006).

2.66.050 Duties and responsibilities. The commission shall have the following duties and responsibilities:

A. Provide advice in the development of a bicycling master plan;

B. Provide advice in the development of a pedestrian/sidewalk master plan;

- C. Provide guidance in the establishment of a list and prioritization of recommended bicycle and pedestrian facility improvements;
- D. Make recommendations on bicycle/pedestrian matters with an emphasis on policy and planning issues;
- E. Periodically review the results of policy implementation to ensure that the bicycle and pedestrian related goals of the comprehensive plan are being met;
- F. Advise the city council about citizen concerns regarding bicycle and pedestrian transportation matters;
- G. Make recommendations on how to improve institutional and professional responsiveness to promote non-motorized transportation;
- H. Educate and inform the public and local officials on bicycle, pedestrian, and multi-modal transportation issues;
- I. Facilitate citizen participation in local government considerations and decisions involving bicycle, pedestrian, and multi-modal transportation matters; and
- J. Promote bicycle, school, and pedestrian safety programs. (Ord. 6692, 2006).

2.66.060 Meetings. The commission shall hold regular meetings as may be provided by its by-laws, and may hold special meetings at the call of the chair or at the request of the city council. (Ord. 6692, 2006).

Chapter 2.68

OFFICERS' BONDS

Sections:

2.68.010 Treasurer relieved of bond.

2.68.020 Obligation assumed by city.

2.68.030 Comptroller.

2.68.040 Chief of police.

2.68.010 Treasurer relieved of bond. The city elects not to give the bond on the municipal treasurer provided for by Section 70.67(1) of the statutes. (Prior code §1.20(1)).

2.68.020 Obligation assumed by city. Pursuant to Section 70.67(2) of the Wisconsin Statutes, the city shall be obligated to pay, in case the treasurer thereof fails to do so, all state and county taxes required by law to be paid by such treasurer to the county treasurer. (Prior code §1.20(2) (part)).

2.68.030 Comptroller. The comptroller shall be covered with a fidelity bond of ten thousand dollars. The city shall pay the cost of such bond. (Ord. 4942, 1989; Prior code §1.15 V).

2.68.040 Chief of police. The chief of police shall be covered with a fidelity bond of ten thousand dollars. The city shall pay the cost of such bond. (Ord. 4942, 1989).

Chapter 2.70**DEPARTMENT OF HUMAN RESOURCES****Sections:****2.70.010 Department created.****2.70.020 Appointment--Duties.**

2.70.010 Department created. There is created a department of human resources under the supervision of a director of human resources. (Charter Ord. 3778 §10(part), 1977).

2.70.020 Appointment--Duties. The city manager shall appoint a director of human resources who shall be responsible for matters involving the personnel of the city, including the hiring, firing, compensation, promotion and demotion of employees. The director shall administer the affirmative action programs of the city and all other programs involving city personnel. The director shall be responsible for city employee labor relations and negotiations and shall perform such other duties as may be assigned from time to time by the city manager. (Charter Ord. 3778 §10(part), 1977).

Chapter 2.72**EMPLOYEES' REGULATIONS****Sections:****2.72.010 City of Eau Claire Pay Plan--Adopted.****2.72.020 City of Eau Claire Employee Benefits and Leaves Plan--Adopted.****2.72.030 Amendments.****2.72.130 Receipt of gifts and gratuities prohibited.**

2.72.010. City of Eau Claire Pay Plan - Adopted. A document containing the City of Eau Claire's Pay Plan and Pay Practices for all City employees shall be on file in the City Clerk's office, the Plan to be signed by the Council President and attested by the City Manager. The City Manager shall administer, interpret, and enforce the Plan and further is authorized to make temporary or minor corrections or clarifications as needed to administer the Employee Pay Plan and Pay Practices for the City of Eau Claire. The City Manager, or his or her designee, shall recommend substantive changes to the City Council and facilitate periodic policy review of the Plan by Council. The Plan shall be open and available for public inspection during regular business hours of City Hall and through other appropriate means to provide broad public access. (Ord. 7054 §2, 2013; Ord. 6944, 2010: Prior code §1.05 I).

2.72.020 City of Eau Claire Employee Benefits and Leaves Plan - Adopted. The City of Eau Claire's Employee Benefits and Leaves Plan for all City employees is adopted by reference and shall be on file in the City Clerk's office, the Plan to be signed by the Council President and attested by the City Manager. The City Manager shall administer, interpret, and enforce the Plan and further is authorized to make temporary or minor administrative corrections or clarifications as needed to administer the Employee Benefits and Leaves Plan for the City of Eau Claire. The City Manager, or his or her designee, shall recommend substantive changes to the City Council and facilitate periodic policy review of the Plan. The Plan shall be open and available for public inspection during regular business hours of City Hall and through other appropriate means to provide broad public access. (Ord. 7055 §1, 2013; Prior code §1.05 II).

2.72.030 Amendments. Amendments to said code shall be by ordinance. (Ord. 7055 §4, 2013; Prior code §1.05 V).

2.72.130 Receipt of gifts and gratuities prohibited. A. It is unlawful for any public employee or public official to receive or offer to receive, either directly or indirectly, any gift, gratuity or anything of value which he is not authorized to receive from any person, if such person:

1. Has or is seeking to obtain contractual or other business or financial relationships with such public employee's employer or the governmental body of the public official; or
2. Conducts operations or activities which are regulated by such public employee's employer or the governmental body of a public official; or
3. Has interests which may be substantially affected by such public employee's employer or the governmental body of the public official.

B. The receipt of any gift, gratuity, or anything of value as denoted above is contrary to the public policy of the city. (Ord. 3423, 1974; Prior code §1.30).

Chapter 2.76

EMPLOYEES' RETIREMENT SYSTEM

Sections:

2.76.010 State fund participation.

2.76.010 State fund participation. A. Pursuant to Section 66.90 of the Wisconsin Statutes, the city elects to include eligible city personnel under the provisions of the Wisconsin Municipal Retirement Fund in accordance with the terms thereof.

B. Election is made to provide prior service credits at rates equal to two times the rates of municipality credits for current service, to be applicable to employees as defined by Section 66.90 of the Wisconsin Statutes, who are employed by the city on the effective date of the ordinance codified herein.

C. Upon the final enactment of the ordinance codified herein the city clerk shall submit a certified notice of the election made hereunder to the Board of Trustees of the Wisconsin Municipal Retirement Fund. Such notice of election shall:

1. Be in writing;
2. Indicate the date and results of such election;
3. Include a certification of the prior service contribution rates selected as being applicable to the employees of the municipality;
4. Be officially certified by the clerk of the municipality.

D. The effective date of participation shall be January 1, 1944, unless the Board of Trustees of the Wisconsin Municipal Retirement Fund shall defer the effective date pursuant to Section 66.90 of the Wisconsin Statutes.

E. This is a charter ordinance and shall take effect sixty days after its passage and publication, unless within such sixty days a referendum petition shall be filed as provided by Section 66.0101 of the Wisconsin Statutes, in which event this chapter shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon. (Prior code §1.07).

Chapter 2.80

MUNICIPAL BAND

Sections:

2.80.010 Created.

2.80.010 Created. A municipal band is established and organized for musical purposes and is designated "Eau Claire Municipal Band" and shall be under the general direction of the director of parks and recreation. (Ord. 3398 §II, 1973; Prior code §23.10).

Chapter 2.84

CEMETERY REGULATIONS

Sections:

2.84.010 Purpose.

2.84.015 Definitions.

2.84.020 Rules pamphlets adopted.

2.84.030 Policy statement.

2.84.040 Purchase of lots.

2.84.050 Ownership rights of interment.

2.84.060 Cemetery maintenance and care.

2.84.070 Privileges and restrictions.

2.84.080 Rules for visitors.

2.84.090 Interments.

2.84.100 Disinterments.

2.84.110 Monuments and markers.

2.84.120 Monumentation structures.

2.84.130 Trees, shrubs and flowers.

2.84.140 Baby section.

2.84.160 Fees and charges.

2.84.165 Special regulations pertaining to columbaria.

2.84.200 Section created for veterans.

2.84.210 Penalty.

2.84.010 Purpose. It appearing that from compilations submitted by the director of finance and comptroller and by the director of parks and recreation and cemeteries that for several years last past the income from sales of lots and other cemetery charges have fallen short of covering the greatly increased costs of maintaining and operating the two city-owned cemeteries. Therefore, it is necessary in accordance with the theory of perpetual care to readjust schedules of fees and charges and to adopt new rules and regulations for cemetery operations. (Ord. 3123 §1(part), 1970; Prior code §13.25(a)).

2.84.015 Definitions. In this chapter, unless the context clearly indicates otherwise, the following words and terms mean as follows:

A. "Cemetery manager" means the director of parks and recreation, or designee of the director of parks and recreation, who is responsible for the management and care of the cemeteries owned by the city. (Ord. 5558 §1, 1995.)

2.84.020 Rules pamphlets adopted. Rules pamphlets entitled "Rules and Regulations and Fees and Charges" pertaining to Lakeview Cemetery and Forest Hill Cemetery, containing the following:

I. Rules and Regulations

- A. Purchase of Lots
- B. Ownership Rights of Interment
- C. Care of Lots
- D. Privileges and Restrictions
- E. Rules for Visitors
- F. Interments
- G. Disinterments
- H. Monuments and Markers
- I. Vaults and Mausoleums
- J. Trees, Shrubs and Flowers
- K. Miscellaneous

II. Fees and Charges

- A. Grave Lots
- B. Grave Openings and Closings
- C. Disinterments
- D. Laying Monument Foundation
- E. Fee for Setting Markers
- F. Chapel Heating and Storage Fees
- G. Columbaria

are adopted by reference as fully as if herein set out verbatim. Copies thereof shall be on file with the city clerk and the director of parks and recreation and cemeteries and open to public inspection during normal business hours. (Ord. 6258 §1, 2002; Ord. 3123 §I(part), 1970; Prior code §13.25(b)).

2.84.030 Policy statement. Lake View Cemetery and Forest Hill Cemetery are owned and maintained by the city for the benefit of all citizens. Definite rules and regulations must be set up by the city council to insure proper maintenance and beauty and to prevent abuse and destruction. The following rules and regulations are set forth to govern Lake View Cemetery and Forest Hill Cemetery. The city reserves the right to amend or change any of these rules or regulations to conform with newly developed cemetery practices. However, before such change is made a public hearing shall be held thereon before the city council and a notice thereof shall be published in the Eau Claire Leader or Telegram at least seven days prior to such hearing. (Ord. 3123 §I(part), 1970; Prior code §13.25 Rules (part)).

2.84.040 Purchase of lots. Persons or their agents desiring to purchase a lot in the cemetery are referred to the cemetery manager. The cemetery manager will have available suitable plats showing size and price of lots, and such other information as may be required, and will render assistance to those desiring to make lot purchases. Upon having made a lot selection, the cemetery manager will issue a lot order to the prospective purchaser. (Ord. 5558 §2, 1995; Ord. 3123 §I(part), 1970; Prior code §13.25 Rule I A).

2.84.050 Ownership rights of interment. A. The lot owner or his authorized agent shall have the right to use a lot or portion of a lot for burial purposes only in accordance with the terms of the cemetery rules and regulations.

Upon full payment of the purchase price of a lot, a deed will be issued and recorded in the records of the city as evidence of ownership of the lot. Lots, or fractions of lots, for which lot deeds have been issued by the city, will not thereafter be divided except by consent of the city. All lots are exempt from taxation and cannot be seized for debt (except those owed to the cemetery) nor can they be mortgaged.

All repossessed vacant grave spaces shall be subject to the same fees and charges.

The lot owner shall have acquired the lot for interment of himself and members of his family. However, the lot owner may grant written permission (which must be notarized and placed on file with the cemetery manager) for the burial of other persons. No corpse shall be interred in a lot except the corpse of one having an interest therein, or a relative, or the husband, or wife of such person, or his or her relative, except by the consent of all persons having an interest in the lot.

B. Unless otherwise directed in writing and filed with the cemetery manager, the lot owner, his devisees, or his heirs, the cemetery will permit the interment of members of his family at the request of any interested person upon proof of eligibility for burial as follows:

1. The surviving spouse of the lot owner shall have the first right to interment or to direct the right of interment.

2. When there is no surviving spouse, the devisees, or heirs of the owners, may by agreement in writing, determine who among them shall have the right of interment or direction for interment, which agreement shall be filed with the cemetery manager.

3. In the event the owner, his devisees or heirs shall not have arranged for future interments, then the devisees or the heirs, as the case may be, of such owner, shall have the right to interment in order of their need.

C. All burial rights in cemetery lots purchased from the city occupy the same position as real estate at the death of the owner. Only such persons whose names appear on the cemetery records of the city will be recognized as owners or part owners of lots. In case of the death of a lot owner, when the cemetery lot is disposed of by a will, and when ownership is to be determined, a certified copy of the will must be delivered to the cemetery manager before the city will recognize the change of ownership. If the deceased lot owner left no will, satisfactory proof of descent must be provided. It is recommended that lot owners, in making their wills, include a provision covering the cemetery lots and devise same to one person.

D. Lot owners may not resell or transfer their lots or parts of lots except as outlined below:

1. The cemetery manager shall enter in the record kept for that purpose all deeds of transfer and reconveyance of cemetery lots. No such reconveyance shall be received and recorded by the cemetery manager until the fee listed in ss. 2.84.160 E. has been paid.

2. Said fee shall be in the cemetery revenue accounts.

3. Reconveyance of lots or parts of lots may be made only by written application therefor upon blanks furnished by the cemetery manager, the same to be approved by the city manager. Such application shall be executed by the owner(s) of the lots, or if the owner(s) is deceased, by the legal heirs. The application shall state the lot and block number. (Ord. 6258 §2, 2002; Ord. 5558 §3, 1995; Ord. 3123 §1(part), 1970; Prior code §13.25 Rule I B).

2.84.060 Cemetery maintenance and care. The city of Eau Claire is committed to the maintenance of its cemeteries and shall provide for the care of cemetery grounds, to include: turf, leaf disposal, filling sunken graves, raising markers, roads, fences, trees and shrubs, buildings and chapel maintenance. Lot owners or residents who wish to consult with the cemetery manager about said care should feel free to do so. (Ord. 6258 §3, 2002; Ord. 5558 §4, 1995; Charter Ord. 3778 §12(part), 1977; Ord. 3123 §1(part), 1970; Prior code §13.25 Rule I C).

2.84.070 Privileges and restrictions. A. Each lot in the cemetery will, prior to its sale, be suitably marked by the city with a metal, brick, or concrete post placed on each lot corner and set level with the adjacent ground. To maintain accuracy and uniformity of marking, substitutes or additional corner posts may be used only if approved by the city.

B. No mound shall be raised upon any grave above the general level of the lot.

C. No hedges, fences, or enclosures of any kind will be permitted on or around lots. Wooden boxes, wire containers, glass jars, bottles, toys, cans, ring urns and other such objects may not be placed on lots and if so placed, will be removed by the city without notice. Urns are not permitted on lots sold after the passage of the ordinance codified herein. Existing urns shall be removed by the city as they become unsightly or deteriorated and shall not be replaced.

D. The city reserves the right for its employees and those persons necessary to the performance of normal cemetery operation to enter upon or cross over any lot in the cemetery in the performance of such duties.

E. The city, or its employees, assumes no liability for damages to property or of person, or for physical or mental suffering arising out of the performance of its normal operation; or for loss by vandalism or other acts beyond its reasonable control.

F. The city reserves the right to alter, change or close alleys, roadways, water mains, and other physical public properties of the cemetery. (Ord. 6258 §4, 2002; Ord. 3123 §I(part), 1970; Prior code §13.25 Rule I D).

2.84.080 Rules for visitors. Visiting rules shall be as follows:

A. The cemetery will be open to visitors at all times between the hours of 8:00 a.m. and one-half hour after the official sunset. Permission to enter the cemetery at any other time must be obtained from the cemetery manager or the police department.

B. Persons or picnic parties, with refreshments, will not be admitted, unless permitted by the cemetery manager.

C. Dogs will only be allowed in the cemeteries when confined in a vehicle or controlled by a leash.

D. Firearms will not be allowed in the cemetery except in conjunction with military funerals. At all other times, firearms, bows and arrows, slingshots, and other like articles will not be allowed.

E. Visitors are required to use the walks and drives whenever possible, and shall not pick any flowers (either wild or cultivated), injure any shrub, tree, or plant, or mar or deface any monument, stone, or structure in the cemetery.

F. Vehicles traveling within the cemetery shall not exceed 5 miles per hour. For purposes of this ordinance, vehicles shall include cars, trucks, bicycles, and motorcycles. Vehicular travel within the cemeteries by visitors shall be limited to asphalt and gravel roadways. (Ord. 6258 §5, 2002; Ord. 5558 §5, 1995; Ord. 3123 §I(part), 1970; Prior code §13.25 Rule I E).

2.84.090 Interments. A. All interments shall be made in a permanent outer container that shall not be constructed of wood.

B. All graves shall be dug by the city under the direction of the cemetery manager. Depth of graves shall conform to the Wisconsin State Board of Health specifications.

A charge for opening and closing a grave including the sodding and seeding of the plot will be made at a current rate set by the city. Said charge for opening of a grave, removal of excess material, refilling and sodding shall be paid within a reasonable period of time but not to exceed one hundred twenty days.

C. No burial will be permitted until a legal burial transit permit has been presented to the cemetery manager. The interment of bodies of persons who have died of contagious disease shall be in strict accordance with the rules of the State Board of Health.

D. The lot owner or funeral director shall designate on the interment form the location of the graves on the lot to the cemetery manager and any change of location made after the opening of a grave has begun shall be at the expense of the lot owner. When definite information for locating a grave is not available thirty-six hours prior to grave preparation to meet the time requested for interment, the cemetery may exercise its best judgment in making a location in order that the requested time for interment may be met. The cemetery assumes no responsibility for any error or inconvenience of such location and an additional charge will be made for any change requested.

E. The cemetery manager or his agent shall whenever possible be given thirty-six hours' notice to assure the opening and preparation of a grave prior to interment. Barring unforeseen or other untoward circumstances such grave shall be opened and prepared in time for interment.

F. When several burials occur in a one or two day period, these burials may be scheduled at the discretion of the cemetery manager but in a prompt and efficient manner.

G. There will be no responsibility on the part of the city for the protection and maintenance of flowers, wreaths, emblems, etc. used in conjunction with funerals.

H. The interment of two bodies in one grave will not be allowed, except in the case of a mother and infant, twin children, two children buried at the same time, or in special circumstances with the approval of the cemetery manager. From one to four cremains will be allowed on a single gravesite. Combined vault space shall not exceed seven feet six inches in multiple interments. (Ord. 6258 §6, 2002; Ord. 5558 §6, 1995; Ord. 3123 §I(part), 1970; Prior code §13.25 Rule I F).

2.84.100 Disinterments. A. Disinterment of bodies from graves in the cemetery will be made only by the city in accordance with the requirements of the State Board of Health. Charges set by the city for removal must be paid in advance.

B. Lot owners, or their heirs, desiring graves opened may secure the necessary disinterment permit from the state and deliver same to the cemetery manager. All removals will be made by the city under the supervision of a licensed embalmer.

C. For sanitary reasons graves will not be reopened for inspection except for official investigation. (Ord. 5558 §7, 1995; Ord. 3123 §I(part), 1970; Prior code §13.25 Rule I G).

2.84.110 Monuments and markers. A. Grave markers and foundations shall be set only by the monument company according to regulations specified by the city. Except as herein otherwise provided, under no conditions will the city construct monument or marker bases or erect monuments or markers on bases. The city reserves the right to require the construction of a foundation of such size, material, and design as will provide ample insurance against settlement or injury to the stone work. The top of the concrete foundation shall be constructed flush with the ground line. All monuments and markers shall be set on a cement foundation that provides for a 5-inch border around the monumentation. A permit shall be available from the office of the cemetery manager.

B. All national and state markers that cannot be set by a monument company at a reasonable fee will be set by the city at cost. The setting of monuments, stones, and markers and the transportation of all tools, materials, etc., within the cemetery ground shall be subject to the supervision and control of the cemetery manager. Unless special arrangements are made with the cemetery manager, such work shall be conducted between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except on national holidays. Whenever possible, at least 24 hours notice shall be given to the cemetery manager that said work is to take place. Heavy trucking will not be permitted within the cemetery when, in the opinion of the cemetery manager, such work may cause damage to the driveways. Except when special permission is obtained, all work as outlined above shall be completed and debris removed immediately.

C. Two markers may be set on a single grave space if approved by the cemetery manager. One of these markers must be a flush or foot marker. Monuments will be allowed on single grave spaces if they complement the appearance of the surroundings and are set on a plate that is no greater than 40 inches in length. Only 2 markers will be allowed on a grave space, one of which shall be flush with the ground and of a size that meets the approval of the cemetery manager. The city reserves the right to refuse the placement of any marker or monument that the cemetery manager feels affects the good appearance of the cemetery grounds or adversely affects the maintenance of said grounds. More than one cremains may be buried in a single grave space.

D. Monument specifications. In sections L, M, N, and O of Forest Hill and I and J of Lakeview a minimum of 2 graves spaces must be purchased. The base of all monuments shall be above ground, between 42 inches and 48 inches in length and no wider than 14 inches. The die/tablet thickness shall be between 6 inches and 8 inches. The size of the monument and/or stonework must be given to the cemetery manager and approved before said work will be permitted on a lot. All monuments must be set in line with other monuments so far as possible as directed by the cemetery manager.

E. Grave marker specifications. In lots where grave markers are specified, the maximum height shall be 16 inches, the maximum length shall be 54 inches on double lots and 30 inches on single lots and the maximum width shall be 14 inches.

F. Flush marker specifications. In lots where flush markers are specified, the maximum length shall be 54 inches on double lots and 30 inches on single lots and the maximum width shall be 14 inches. The markers and borders shall be even with the existing grade.

G. Private estate crypt special conditions. Because of the numerous styles of private crypts, special conditions concerning their construction and installation apply. The monument company shall submit a written proposal to the cemetery manager for consideration of each individual crypt. This proposal shall contain a design of the crypt to include base and footing designs, construction materials to be used, color of exterior granites, warranty information, installation schedules, and the number of lots requested. Lot sale transactions with the future deed holder shall be concluded prior to crypt installation. The cemetery manager shall determine the appropriate number of lots to be purchased for each crypt.

H. Because of the various styles of veterans plaques and markers available and also the multiple options for mounting same, the cemetery manager shall determine acceptable applications.

I. Monument, grave marker (flat, bevel, or slant), flush marker, and private estate crypt lot regulations shall be indicated in the Rules and Regulations Pamphlet for each cemetery.

J. Stone work or monument work, once placed on a foundation, shall not be removed, except by permission of the cemetery manager.

K. The lot must be paid in full or other assurance given of payment before markers and monuments are set.

L. Temporary markers shall be removed at the end of 6 months and replaced with a permanent marker within one year.

M. No person shall erect, construct, or install in any cemetery a candle or fuel-powered device which is designed and intended to produce a memorial flame for a continuous and indefinite period. This section shall not prohibit any such candle or device that has been installed and is in operation prior to the effective date of this section. (Ord. 6258 §7, 2002; Ord. 5558 §8, 1995; Ord. 4744, 1987; Ord. 4682, 1986; Ord. 3958 §1, 1979; Ord. 3123 §I(part), 1970; Prior code §13.25 Rule I H).

2.84.120 Monumentation structures. The construction and/or placement of any interment structure or monumentation structure is prohibited without the permission of the cemetery manager. (Ord. 6258 §8, 2002; Ord. 3123 §I(part), 1970; Prior code §13.25 Rule II).

2.84.130 Trees, shrubs, and flowers. A. Trees and shrubs.

1. The planting of trees and shrubs will not be permitted without the permission of the city forester/cemetery manager. Any tree or shrub maintenance or removal shall be performed by the city at city expense and under the direction of the city forester.

2. The cemetery manager shall accept donations from individuals requesting the planting of trees as living memorials. All costs related to the purchase shall be paid by the donator. The city shall plant and maintain the donated trees. The cemetery manager/city forester shall determine the appropriate site, and the species and size of tree to be donated.

B. Flowers. Special regulations.

1. Displays of flowers in sections D, I, J, and K of Lakeview and sections N and O of Forest Hill shall be in a single pedestal type urn, which shall be set at the backside or side of the markers in straight rows. The metal pedestal pole shall not exceed 2 inches in diameter and shall be painted green. The distance from the bottom of the urn holder to the top of the marker border shall be 22 inches, and the urn shall be round and not less than 10 inches nor more than 14 inches in diameter.

C. Flowers - General regulations.

1. Fresh cut flowers may be placed anytime and will remain until, in the judgment of the cemetery manager, they become unsightly. Containers for cut flowers shall be of a type that is level with the ground and can be disposed of when the flowers are removed.

2. Individual flowerbeds of growing plants may be allowed if maintained at a reasonable size and only with the approval of the cemetery manager. If these are not maintained and/or become unsightly, they will be removed by the city.

3. Potted plants may be set on lots with the approval of the cemetery manager. They will be removed if they are not maintained and/or have become unsightly.

4. No living plant within the cemetery will be removed, cut, or transplanted without the approval of the cemetery manager.

D. Other decorations.

1. Artificial plants and flowers must be in a vase or pot and will be treated as a potted plant.
2. Wreaths may be placed between November 15 and March 15 only.
3. All other artificial decorations, such as, statues, dolls, birdfeeders, toys, and plant hangers are prohibited unless approved by the cemetery manager. (Ord. 6258 §9, 2002; Ord. 5558 §10, 1995; Ord. 3123 §I(part), 1970; Prior code §13.25 Rule I L).

2.84.140 Baby section. An area in section "F" in Lake View and section "M" in Forest Hill Cemeteries will be established for the purpose of infant burial. Each grave site will be required to have a flush marker eight inches by sixteen inches installed within one year. There will be no flowers permitted on grave sites in the baby section. (Ord. 3123 §I(part), 1970; Prior code §13.25 Rule I K).

2.84.160 Fees and charges. Fees and charges shall be as stated in the City of Eau Claire Fees and Licenses Schedule.

- A. Repealed by ordinance no. 6363.
- B. Repealed by ordinance no. 6363.
- C. Repealed by ordinance no. 6363.
- D. Repealed by ordinance no. 6363.
- E. Repealed by ordinance no. 6363.
- F. Repealed by ordinance no. 6363.
- G. Receipts will be issued for all fees and charges as outlined in the current schedule of fees and charges.
- H. A schedule of fees and charges, as established by the city council, shall be on file in the office of the cemetery manager and the city clerk. Such schedule may change from time to time without advance notice to conform to current economic conditions. (Ord. 6363 §3, 2002; Ord. 6258 §11, 2002; Ord. 6132 §1, 2001; Ord. 6009 §1, 1999; Ord. 5920, 1999; Ord. 5671, 1996; Ord. 5375, 1993; Ord. 5275 §1, 1992; Ord. 5170, 1991; Ord. 5075 §1, 1990; Ord. 4555, 1985; Ord. 4166, 1981; Ord. 3977 §1, 1979; Ord. 3951 §1, 1979; Ord. 3517 (part), 1975; Ord. 3123 §I(part), 1970; Prior code §13.25 Rule II).

2.84.165 Special regulations pertaining to columbaria. A. General rules.

1. A columbarium consists of niches for cremation interments only. No columbarium shall be used for any purpose other than the interment of human cremains (ashes). A niche can house up to two cremains.

2. Containers and/or urns (vases) in companion niches may not exceed a base width of 5 1/2 inches by 5 1/2 inches by 7 inches in height and length (212 cubic inches) and shall be sealed and inscribed or marked in permanent ink with the name and date of death of the deceased.

3. Partial body cremains are acceptable in the container or urn. However, any request to add additional cremains to the container or urn, whether that of a deceased family member or that of the same person, will not be allowed except by special permission of the cemetery manager or his or her agent and payment of applicable interment fees.

4. When two cremains exist in an acceptable container, they shall be considered as two interments even though they are in one container.

5. Bronze plaques shall be placed on the niche faceplate to identify the occupant(s). Size, style, layout, and arrangements for placement shall be determined by the cemetery manager or his or her agent. No painting, decorating, defacing or alteration of the columbarium shall be permitted in any way.

B. Interments.

1. No niche shall be used for the interment of cremains until all fees have been fully paid, including interment fees. The cemetery manager or his or her agent will authorize placement of containers within a niche only after verification of payment of fees has been made.

2. If the person(s) to be interred is not the owner, the owner must authorize the interment in writing and such authorization must be notarized.

3. All interment requests shall be reviewed and approved by the cemetery manager or his or her agent prior to the actual interment.

C. Disinterments

1. The removal of cremains from a columbarium shall comply strictly with the following provisions:

a. The person(s) wishing to remove cremains must have a legal right to manage the cremains and must be next of kin.

b. The person(s) wishing to remove cremains must provide acceptable proof of identity, as determined by the cemetery manager or his or her agent.

c. The request for removal of cremains must be approved by the surviving spouse of the decedent. If there is no surviving spouse, the removal of cremains must be approved by all of the living children of the decedent. If there are no living children, the removal of cremains must be approved by all living parents of the decedent. If there are no living parents, the removal of cremains must be approved by all living siblings of the decedent. In any case, a notary public must confirm each individual signature.

d. The request for cremains removal must be approved by the cemetery manager or his or her agent before removal may occur.

e. If satisfactory documentation is not provided to remove cremains, the cemetery manager or his or her agent will deny the request for cremains removal. His or her decision will be final.

f. The request for removal of cremains must be accompanied by the payment of all costs incurred by the city of Eau Claire associated with cremains removal.

g. The cemetery manager or his or her agent shall amend the records to reflect the removal of the cremains.

h. The applicant must indemnify and hold harmless the city of Eau Claire from any and all actions which may result from the disinterment.

D. Transfer of ownership. Niche ownership shall not be transferred without first obtaining the approval of the cemetery manager or his or agent. If a niche owner desires to transfer title of a niche which has a plaque, said plaque shall be removed by the city, and the new owner, once approved, shall be responsible for fees to purchase and install a new plaque on the front of the niche. The transfer fee shall be paid prior to administering and recording an approved transfer.

E. Niche fees and administration. Whether a niche is purchased for and is classified "individual" (one cremains) or "companion" (two cremains), the niche prices shall be as stated in the City of Eau Claire Fees and Licenses Schedule and will include the purchase and installation of the bronze name and date plaque on the face of the niche. In the event a niche is purchased and classified as an "individual" niche, the owner and his or her heirs may request in writing to the cemetery manager or his or her agent that the niche be reclassified to "companion" status and pay the city an opening fee and a replacement fee for a companion plaque. (Ord. 6363 §3, 2002; Ord. 6258 §12, 2002; Ord. 6132 §2, 2001; Ord. 6009 §2, 1999; Ord. 5869, 1998).

2.84.200 Section created for veterans. A. The following lots in section "G" of Lakeview Cemetery are set apart for the burial of veterans of the armed forces:

Lots 320 to 334, both inclusive;
 Lots 337 to 352, both inclusive;
 Lots 373 to 385, both inclusive;
 Lots 396 to 408, both inclusive;
 Lots 429 to 440, both inclusive;
 Lots 454 to 461, both inclusive.

B. Burial space shall be reserved for deceased members or veterans of the armed forces of the United States who do not have a family burial lot, or who, for circumstances which, in the opinion of the city council warrant, are entitled to such space. (Ord. 6258 §14, 2002; Prior code §13.26).

2.84.210 Penalty. Any person violating any of the provisions of this chapter shall, on conviction thereof, forfeit not less than five dollars nor more than one hundred dollars for each violation together with the costs of prosecution and in default of the payment of such forfeiture and costs shall be imprisoned in the county jail of Eau Claire County for a term of not more than thirty days. Each day after one week from date of conviction that a violation of this chapter continues shall be deemed a separate offense. (Ord. 3123 §I(part), 1970; Prior code §13.25 Rule H).

Chapter 2.88

EMERGENCY PREPAREDNESS*

Sections:

2.88.010 Appointment; powers, duties and responsibilities.

2.88.010 Appointment; powers, duties and responsibilities. Pursuant to s. 166.03(4), Wis. Stats., the city manager is appointed the head of emergency government for the city. The city manager shall possess and exercise the powers and duties and assume those responsibilities as prescribed by ch. 166, Wis. Stats. The city manager may delegate such function to a subordinate. (Ord. 4993, 1989).

Chapter 2.92

CITY PROCUREMENT

Sections:

- 2.92.010 Purpose--Rules of construction.**
- 2.92.020 Requirement of good faith.**
- 2.92.030 Application.**
- 2.92.040 Determinations.**
- 2.92.050 Definitions.**
- 2.92.060 Purchasing agent.**
- 2.92.070 Authority of the purchasing agent.**
- 2.92.075 Creation of procurement policy.**
- 2.92.080 Delegation of authority.**
- 2.92.090 Centralization of procurement authority.**
- 2.92.100 Methods of source selection.**
- 2.92.110 Competitive sealed bidding.**
- 2.92.120 Competitive sealed proposals.**
- 2.92.130 Small purchases.**
- 2.92.140 Sole source procurements.**
- 2.92.150 Emergency procurements.**
- 2.92.155 Cooperative purchasing.**
- 2.92.160 Modification of contracts.**
- 2.92.170 Cancellation of invitation for bids or requests for proposals.**
- 2.92.180 Finality of determinations.**
- 2.92.190 Specifications--Duties of purchasing agent.**
- 2.92.195 Contractual remedies.**
- 2.92.200 Supply management.**
- 2.92.210 Prevailing wage on building or work financed in whole or in part with city financial assistance.**
- 2.92.215 Regulation of public work.**
- 2.92.220 Ethics in public contracting.**
- 2.92.230 Employee disclosure requirements.**

* For provisions regarding emergency seat of local government, see WSA 166.06; for provisions regarding succession to local office, see WSA 166.07.

- 2.92.240 Gratuities and kickbacks.**
- 2.92.250 Restrictions on employment of present and former employees.**
- 2.92.260 Prohibition against contingent fees.**
- 2.92.270 Use of confidential information.**
- 2.92.280 Public access to procurement information.**
- 2.92.290 Civil and administrative remedies.**
- 2.92.300 Civil and administrative remedies against nonemployees.**
- 2.92.310 Recovery of value transferred or received.**
- 2.92.320 Waiver.**

2.92.010 Purpose--Rules of construction. A. Interpretation. This chapter shall be construed and applied to promote its underlying purposes and policies.

B. Purposes. The underlying purposes and policies of this chapter are:

1. To simplify, clarify, and modernize the law governing procurement by this city;
2. To permit the continued development of procurement policies and practices;
3. To make as consistent as possible the procurement laws among the various governmental bodies;
4. To provide for increased public confidence in the procedures used in public procurement;
5. To ensure the fair and equitable treatment of all persons who deal with the procurement system of this city;
6. To provide increased economy in city procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds of the city;
7. To foster effective broad-based competition within the free enterprise system; and
8. To provide safeguards for the maintenance of a procurement system of quality and integrity. (Ord. 4051(part), 1980).

2.92.020 Requirement of good faith. This chapter requires all parties involved in the negotiation, performance, or administration of city contracts to act in good faith. (Ord. 4051(part), 1980).

2.92.030 Application. A. General Application. This chapter applies only to contracts solicited or entered into after the effective date of this chapter (February 28, 1980) unless the parties agree to its application to a contract entered into prior to the effective date.

B. Application to City Procurement. This chapter shall apply to every expenditure of public funds regardless of source, including state and federal assistance moneys, by this city, under any contract, except that nothing in this chapter shall prevent the city from complying with the terms and conditions of any grant, gift or bequest or cooperative agreement. This chapter shall apply to the disposal of city supplies.

C. Effect of State or Federal Assistance Requirements. In the event state or federal assistance requirements conflict with the provisions of this chapter, nothing in this chapter shall prevent the city from complying with the terms and conditions of the federal assistance requirements. (Ord. 4051(part), 1980).

2.92.040 Determinations. Written determinations and findings required by this chapter shall be retained in an appropriate official contract file in the office of the purchasing agent. (Ord. 4051 (part), 1980).

2.92.050 Definitions. Unless the context clearly required otherwise, the words defined in this section shall have the meanings set forth below whenever they appear in this chapter:

A. "Blind trust" means an independently managed trust in which the employee-beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in or other dispositions of the property subject to the trust.

B. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity.

C. "Confidential information" means any information which is available to an employee only because of the employee's status as an employee of this city and is not a matter of public knowledge or available to the public on request.

D. "Construction" means the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

E. "Contract" means any type of city agreement, regardless of what it may be called, for the purchase or disposal of supplies, services, or construction. It includes contracts of a fixed-price, cost, cost-plus-a-fixed fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; and purchase orders. It also includes supplemental agreements with respect to any of the foregoing.

F. "Contractor" means any person or business having a contract with the governmental body.

G. "Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public procurement unit.

H. "Debarment" means the disqualification of a person or business to receive invitations for bids or requests for proposals, or the award of a contract by the city for a specified period of time commensurate with the seriousness of the offense or the failure or the inadequacy of performance.

I. "Designee" means a duly authorized representative or a person holding a superior position.

J. "Employee" means an individual drawing a salary from the city, whether elected or not, and any noncompensated individual performing personal services for the city.

K. "Excess supplies" means supplies having a remaining useful life but which are no longer required by the using agency in possession of the supplies.

L. "Financial interest" means:

1. Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently, or in the future may receive, any financial benefit;

2. Ownership of any interest in any business; or

3. Holding a position in a business such as an officer, director, trustee, partner, employee, or similar position, or holding any position of management.

M. "City" means the city of Eau Claire and shall include the city council and any department, commission, council, board, bureau, committee, institution, authority, agency, government corporation, or other establishment or official of the government of this city, including the city-county health department, but not including the Eau Claire area school district.

N. "Gratuity" means a payment, loan, subscription, advance, deposit of money, service, or anything of any monetary value, present or promised, unless consideration of substantially equal or greater value is received.

O. "Immediate family" means a spouse, children, parents, brothers and sisters, and grandparents.

P. "Invitation for bids" means all documents, including those attached or incorporated by reference, utilized for soliciting bids.

Q. "Procurement" means the buying, purchasing, renting, leasing or otherwise obtaining any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

R. "Purchasing agent" means the person holding the position created by Section 2.92.060 as the head of the central purchasing office of the city of Eau Claire.

S. "Request for proposals" means all documents, including those attached or incorporated by reference, utilized for soliciting proposals.

T. "Responsible bidder" means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

U. "Responsive bidder" means a person who has submitted a bid which conforms in all material respects to the invitation for bids.

V. "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term includes "professional services" but it does not include employment agreements or collective bargaining agreements.

W. "Specifications" means any description of the physical or functional characteristics, or of the nature of, a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

X. "Supplies" means all property, including but not limited to equipment, parts, materials, printing, insurance, and leases on real and personal property, excluding land or a permanent interest in land.

Y. "Surplus supplies" means any supplies no longer having any use to the city. This includes obsolete supplies, scrap materials, and nonexpendable supplies that have completed their useful life cycle.

Z. "Suspension" means the disqualification of a person to receive invitations for bids or requests for proposals or the award of a contract by the city, for a temporary period pending the completion of an investigation, or during any legal proceedings that may ensue because a person is suspected upon probable cause of engaging in criminal, fraudulent, or seriously improper conduct or failure or inadequacy of performance which may lead to debarment.

AA. "Using department" means any department, commission, council, board, bureau, committee, institution, authority, agency, government corporation, or other establishment or official of the government of this city, including the city-county health department, but not including the Eau Claire area school district which utilizes any supplies, services, or construction purchased under this chapter. (Ord. 4051 (part), 1980).

2.92.060 Purchasing agent. A division of purchasing is created within the department of administration, which shall be headed by the purchasing agent. The director of the department of administration, with the approval of the city manager, shall appoint the purchasing agent. The purchasing agent shall have a minimum of five years' experience in the purchasing of supplies, services and construction within the twelve years preceding the date of this appointment. Such five-year experience requirement may be satisfied by any combination of job experience and educational training, provided that two years of educational training shall be equal to one year of job experience for the purpose of fulfilling this requirement. The purchasing agent shall also be an individual with demonstrated executive and organizational ability. The purchasing agent shall be a full-time public official of the city and may be removed from office, after the probationary period, only upon a showing of just cause. (Ord. 4051(part), 1980).

2.92.070 Authority of the purchasing agent. A. Principal Contracting Officer. The purchasing agent shall serve as the principal contracting officer and central procurement officer of the city.

B. Power to Adopt Internal Operational Procedures. Consistent with the provisions of this chapter, the purchasing agent may adopt internal operational procedures governing the city purchasing division.

C. Duties. Except as otherwise specifically provided in this chapter, the purchasing agent shall, in accordance with policy approved by the city manager:

1. Procure or supervise the procurement of all supplies, services, and construction needed by the city;
2. Exercise supervision and control over all inventories of supplies belonging to the city;
3. Sell, trade, or otherwise dispose of surplus supplies belonging to the city;
4. Establish and maintain programs for the inspection, testing, and acceptance of supplies, services, and construction; and
5. Administer a risk management program. (Ord. 4051 (part), 1980).

2.92.075 Creation of procurement policy. Except as otherwise provided in this chapter, the city manager shall have the authority and responsibility to promulgate and approve the procurement policy of the city of Eau Claire, but the city manager shall not exercise authority over the award or administration of any particular contract or any dispute, claim or litigation pertaining thereto. (Ord. 4051(part), 1980).

2.92.080 Delegation of authority. Subject to policy approved by the city manager, the purchasing agent may delegate authority to designees or to any department. (Ord. 4051 (part), 1980).

2.92.090 Centralization of procurement authority. All rights, powers, duties, and authority relating to the procurement of supplies, services, and construction, and the management, control, warehousing, sale, and disposal of supplies, services, and construction now vested in or exercised by any using department and regardless of source of funding, are hereby transferred to the city manager and the purchasing agent.

A. Relationship with Using Departments. The purchasing agent shall obtain expert advice and assistance from personnel of using departments in the development of specifications and may delegate in writing to a using department the approval and authority to prepare and utilize its own specifications.

B. Collection of Data Concerning Procurement. The purchasing agent shall cooperate with the comptroller in the preparation of statistical data concerning the procurement, usage, and disposal of all supplies, services, and construction. All using departments shall furnish such reports as the purchasing agent may require concerning usage, needs, and stocks on hand, and the purchasing agent shall have authority to prescribe forms to be used by the using departments in requisitioning, ordering, and reporting of supplies, services, and construction. (Ord. 4051(part), 1980).

2.92.100 Methods of source selection. Unless otherwise authorized by law, all city contracts shall be awarded by competitive sealed bidding, pursuant to Section 2.92.110, except as provided in Sections 2.92.120 through 2.92.170. (Ord. 4051(part), 1980).

2.92.110 Competitive sealed bidding. A. Invitation for Bids. Where competitive sealed bidding is utilized, an invitation for bids shall be issued which shall include a purchase description and all contractual terms and conditions applicable to the procurement.

B. Public Notice. Adequate public notice of the invitation for bids shall be given a reasonable time prior to the date set forth therein for the opening of bids, as required by law, or in accordance with policy approved by the city manager. Such notice may include publication in a newspaper of general circulation a reasonable time prior to bid opening.

C. Bid Opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as may be specified in the invitation for bids, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.

D. Bid Acceptance and Bid Evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and which will be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.

E. Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In the event all bids exceed available funds as certified by the appropriate fiscal officer and the low responsive and responsible bid does not exceed such funds by more than five percent, the purchasing agent is authorized, where permitted by law, in situations where time or economic considerations preclude resolicitation of work or a reduced scope, to negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds.

F. Multi-step Sealed Bidding. When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation. (Ord. 4051 (part), 1980).

2.92.120 Competitive sealed proposals. A. Conditions for Use. When the purchasing agent, in accordance with policy approved by the city manager, determines in writing that the use of competitive sealed bidding is not required by law and is either not practicable or not advantageous to the city, a contract may be entered into through receipt of competitive sealed proposals. Competitive sealed proposals may also be used for the procurement of professional services whether or not the written determination described herein has been made. Further, if it is the written determination of a majority of a group consisting of the city manager, purchasing agent, and representative of the department expecting to utilize such professional services that the competitive sealed proposal procedure is impractical or otherwise unsuitable, the procurement of the necessary professional service may be made on the basis of noncompetitive negotiations without regard to Sections 2.92.120 and 2.92.130.

B. Request for Proposals. Competitive sealed proposals shall be solicited through a request for proposals.

C. Public Notice. Adequate public notice of the request for proposals shall be given in the same manner as provided for competitive sealed bidding in Section 2.92.110.

D. Receipt of Proposals. Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared and open for public inspection.

E. Evaluation Factors. The request for proposals shall state the relative importance of the evaluation factors and price.

F. Discussion with Responsible Offerors and Revisions of Proposals. As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submission and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

G. Award. Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the city, taking into consideration the evaluation factors set forth in the request for proposals, and price. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made. (Ord. 4051(part), 1980).

2.92.130 Small purchases. Except as otherwise required by law, any procurement not exceeding the amount established by city procurement policy may be made in accordance with small purchase procedures approved by the city manager; provided, however, that procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. If the actual price of a procurement obtained through such small purchases procedure exceeds, by fifteen percent or more, the maximum amount established by such policy, the purchasing agent may determine that the procurement be made using Section 2.92.110 or Section 2.92.120. (Ord. 4051(part), 1980).

2.92.140 Sole source procurements. Where permitted by law a contract may be awarded for a supply, service, or construction without competition when the purchasing agent or designee determines in writing that there is only one source for the required supply, service, or construction. (Ord. 4051(part), 1980).

2.92.150 Emergency procurements. A. The purchasing agent or a designee shall be empowered to determine and declare the existence of an emergency, as provided under sec. 62.15(1b), Wis. Stats., when damage or threatened damage to public facilities endangers the health or welfare of the public. Immediately upon making such determination, the purchasing agent shall certify to the city manager the existence of the emergency and the basis for such determination, and shall describe the course of action taken or proposed to be taken.

B. The purchasing agent or a designee may make or authorize others to make emergency procurements when there exists a threat to public health or welfare under emergency conditions as defined in paragraph A. and as defined in policy approved by the city manager for procurements not governed by sec. 62.15, Wis. Stats., provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. (Charter Ord. 4646 §2, 1986; Ord. 4051(part), 1980).

2.92.155 Cooperative purchasing. The purchasing agent may do any of the following, without regard to any other provision of ch. 2.92, if the same is permitted by federal or state law:

A. Where a federal, state or local government, or a cooperative purchasing group made up of purchasing officers from a federal, state or local government, has awarded a contract for the purchase or lease of supplies, equipment, services or construction, the purchasing agent may, using the same terms and conditions of the contract, purchase or lease the same supplies, equipment, service or construction from the vendor to whom that contract was awarded.

B. Purchase, lease, acquire or use any new, used, surplus or excess supplies, equipment, facilities and services, including construction services, directly from a federal, state or local government if the purchasing agent determines that such purchase, lease, acquisition or use is in the city's best interest.

C. Participate in cooperative purchasing agreements with federal, state or local governments.

D. Sell any supplies, services, equipment or facilities to another unit of federal, state or local government.

E. Enter into agreements for the common use or lease of facilities with other units of federal, state or local government under the terms agreed upon by the parties. (Ord. 6035, 2000; Ord. 5652, 1996).

2.92.160 Modification of contracts. The purchasing agent, after consultation with the city attorney and with the approval of the city manager, may modify or delete existing and add new contractual provisions and clauses to all forms of supply, service and construction contracts utilized by the city, provided that such modification, deletions, or additions are supported by a written determination. (Ord. 4051(part), 1980).

2.92.170 Cancellation of invitation for bids or requests for proposals. An invitation for bids, a request for proposals, or other solicitation may be delayed or cancelled, or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, only if it is determined in writing by the purchasing agent that such action is taken in the best interests of the city. (Ord. 4051(part), 1980).

2.92.180 Finality of determinations. The determinations required by Sections 2.92.110, 2.92.120, 2.92.140, 2.92.150, 2.92.160 and 2.92.170 are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law. (Ord. 4051 (part), 1980).

2.92.190 Specifications--Duties of purchasing agent.

A. The purchasing agent shall prepare, issue, revise, maintain, and monitor the use of specifications for supplies, services, and construction required by the city, provided that:

1. The purchasing agent may delegate to using departments responsibility for the preparation and maintenance of specifications generally or for specific supplies, services, or construction, subject to approval of any such specifications by the purchasing agent; and

2. If the purchasing agent does not approve a specification, the city manager may, at his discretion, upon the request of the using agency, modify or reverse such decision of the purchasing agent. Any determination modifying or reversing the specifications shall be in writing.

B. Maximum Practicable Competition. All specifications shall seek to promote overall economy for the intended purpose and shall be drafted so as to assure the maximum practicable competition for the city's actual requirements.

C. Specifications Prepared by Architects and Engineers. The requirements of this section regarding the purposes and nonrestrictiveness of specifications shall apply to all specifications, including, but not limited to, those prepared by architects, engineers, designers, and draftsmen for public contracts. (Ord. 4051(part), 1980).

2.92.195 Contractual remedies. A. Authority to Resolve Protested Solicitations and Awards.

1. Right to Protest. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the purchasing agent. The protest shall be submitted in writing within fourteen days after such aggrieved person knows or should have known of the facts giving rise thereto.

2. Authority to Resolve Protests. The purchasing agent shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest of an aggrieved bidder, offeror, or contractor, actual or prospective, concerning the solicitation or award of a contract.

3. Decision. If the protest is not resolved by mutual agreement, the purchasing agent shall promptly issue a decision in writing. The decision shall:

a. State the reasons for the action taken; and

b. Inform the protestant of its right to judicial review as provided in this chapter.

4. Notice of Decision. A copy of the decision under this section shall be mailed or otherwise furnished immediately to the protestant and any other party intervening.

5. Finality of Decision. A decision under this section shall be final and conclusive unless fraudulent, or unless any person adversely affected by the decision commences an action in court.

6. Stay of Procurements During Protests. In the event of a timely protest under this section, the city shall not proceed further with the solicitation or with the award of the contract until the purchasing agent, after consultation with the head of the using agency and the city manager, makes

a written determination that the award of the contract without delay is necessary to protect substantial interests of the city.

B. Authority to Debar or Suspend.

1. Authority. After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the purchasing agent, after consultation with the using agency and the city attorney, shall have authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three years. The same officer, after consultation with the using agency and the city attorney, shall have authority to suspend a person from consideration for award of contracts if there is probable cause for debarment. The suspension shall not be for a period exceeding three months.

2. Causes for Debarment or Suspension. The causes for debarment or suspension include the following:

a. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

b. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a city contractor;

c. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

d. Violation of contract provisions, as set forth below, of a character which is regarded by the purchasing agent to be so serious as to justify debarment action:

(i) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract, or

(ii) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;

e. Any other cause the purchasing agent determines to be so serious and compelling as to affect responsibility as a city contractor, including debarment by another governmental entity for any of the causes listed in this chapter; and

f. For violation of the ethical standards set forth in this chapter.

3. Decision. The purchasing agent shall issue a written decision to debar or suspend. The decision shall:

a. State the reasons for the action taken; and

b. Inform the debarred or suspended person involved of its rights to judicial review as provided in this chapter.

4. Notice of Decision. A copy of the decision under this section shall be mailed or otherwise furnished immediately to the debarred or suspended person and any other party intervening.

5. Finality of Decision. A decision under this section shall be final and conclusive, unless fraudulent, or unless the debarred or suspended person commences an action in court.

C. Authority to Resolve contract and Breach of Contract Controversies.

1. Applicability. This section applies to controversies between the city and a contractor and which arise under, or by virtue of, a contract between them. This includes without limitation controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.

2. Authority. The purchasing agent is authorized, prior to commencement of an action in a court concerning the controversy, to settle and resolve a controversy described in this section.

3. Decision. If such a controversy is not resolved by mutual agreement, the purchasing agent shall promptly issue a decision in writing. The decision shall:

- a. State the reasons for the action taken; and
- b. Inform the contractor of its right to judicial review as provided in this chapter.

4. Notice of Decision. A copy of the decision under this section shall be mailed or otherwise furnished immediately to the contractor.

5. Finality of Decision. The decision under this section shall be final and conclusive, unless fraudulent, or unless the contractor commences an action in court.

6. Failure to Render Timely Decision. If the purchasing agent does not issue the written decision required under this section within one hundred twenty days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the contractor may proceed as if an adverse decision had been received.

D. Time Limitations on Actions.

1. Protested Solicitations and Awards. Any legal action under this chapter shall be initiated within thirty days after the aggrieved person knows or should have known of the facts giving rise to the action.

2. Debarments and Suspensions for Cause. Any action challenging a suspension or debarment shall be commenced within six months after receipt of the decision of the purchasing agent under this chapter.

3. Actions Under Contracts or for Breach of Contract. The statutory limitations on an action between private persons on a contract or for a breach of contract shall apply to any action commenced pursuant to this chapter. (Ord. 4051(part), 1980).

2.92.200 Supply management. The purchasing agent may promulgate operational procedures governing:

- A. The management of supplies during their entire life cycle;
- B. The sale, lease or disposal of supplies by public auction, competitive sealed bidding, or other appropriate methods excepting purchases of an interest in real property. However, no employee of the city shall be entitled to purchase any such supplies, except by public auction or competitive sealed bidding; and
- C. Transfer of excess supplies within the city. For the purpose of this section, surplus supplies does not include real property. (Ord. 4051(part), 1980).

2.92.210 Prevailing wage on building or work financed in whole or in part with city financial assistance.

A. Purpose and intent. It is the policy of the city to assure equitable wages for all building or construction work which is financed in whole or in part with city financial assistance. Extending prevailing wages to workers employed on such projects preserves and promotes the public health, safety, prosperity, and general welfare of the people of the city of Eau Claire.

B. On any projects for which the city contributes financial assistance and which are "public work," "building work," or "erection, construction, remodeling, repairing" and on which work is performed by "employees working on the project" or "laborers, workers, and mechanics" as those terms are defined herein, all employees shall be compensated at the rates established under Wisconsin Statutes and Section DWD 290 of the Wisconsin Administrative Code or as may be provided by the city from time to time. In the event of a difference in the required rates or provisions, the higher wage or more stringent provision established by the city or the state shall be required.

C. "City financial assistance" means any grant, cooperative agreement, loan, contract (other than a public work contract, a supply procurement contract, a contract of insurance or guaranty or a collective bargaining agreement) or any other arrangement by which the city provides or otherwise makes available assistance, in the form of:

1. Funds.
2. Real and personal property or any interest in or use of such property, including:
 - a. Transfers or leases of such property for less than the fair market value, or for reduced consideration; and
 - b. Proceeds from a subsequent transfer or lease of such property if the city's share of its fair market value is not returned to the city.
3. The sale and lease of, and the permission to use (on other than a casual or transient basis) city property or any interest in such property, the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by the sale, lease or furnishing of services to the recipient.
4. Any city agreement, arrangement or other contract which has as one of its purposes the provision of financial assistance, including purchase of service agreements.
5. "City financial assistance" includes, but is not limited to redevelopment contracts, economic development agreements, revenue or loan agreements which an eligible participant or authorized developer under s. 66.1103, Wis. Stats., contracts with developers or other entities authorized by ss. 66.1333(5) and 66.1105(3), Wis. Stats., and assistance provided under s. 66.1109, Wis. Stats.
- D. All contracts or agreements for such projects shall include the following provision: Prevailing wages. The contractor shall pay its employees the wage rates established pursuant to ss. 2.92.210 and 2.92.215 and will comply with all other requirements of those ordinances, and shall require in its contracts and subcontracts for work on the project, adherence by those contractors, subcontractors and agents to the wage rates and other requirements of those ordinances. (Ord. 6214 §1, 2001).

2.92.215 Regulation of public work A. Wage rates for employees of public work contractors.

1. Intent. It is the intent of the city of Eau Claire in adopting this code section to avoid duplicate application of prevailing wage requirements while maintaining a base application of prevailing wage rates to ensure local equitable wages for those employees performing public work for the City, its contractors, and those receiving city financial assistance. The City Council finds that payment of prevailing wage rates to employees on qualified projects preserves and promotes the public health, safety and welfare of the City and its citizens.
2. General and authorization. Contracts for public work issued by the city of Eau Claire shall require the contractor to compensate its employees at the prevailing wage rate in accordance with s. 66.0903, Wis. Stats., DWD 290 of the Wisconsin Administrative Code, and, as applicable, as hereinafter provided.
 - a. The terms and conditions of this code section shall only apply to contracts for public work in an amount of \$25,000 or more, and that are excluded from coverage under Wisconsin State law.
 - b. The following are exceptions to which this code that shall not apply:
 - (1) Volunteer labor done on behalf of the City or later accepted by the City;
 - (2) Minor service or maintenance work;
 - (3) Work to any street, bridge, sewer or like infrastructure project privately completed and later acquired, dedicated, or transferred to the City; and
 - (4) Work on a private construction project unless covered by the terms of §2.92.210.
3. Definitions.
 - a. "Public work" shall include building or work involving the erection, construction, remodeling, repairing or demolition of buildings, parking lots, highways, streets, bridges, sidewalks, street lighting, traffic signals, sanitary sewers, water mains and appurtenances, storm sewers, and the grading and landscaping of public lands.
 - b. "Building or work" includes construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work, except for the delivery of mineral aggregate such as sand, gravel, bituminous asphalt concrete or stone which is incorporated into the work under contract with the city by depositing the material substantially in place, directly or through spreaders, from the transporting vehicle.

c. "Erection, construction, remodeling, repairing" means all types of work done on a particular building or work at the site thereof in the construction or development of the project, including, without limitation, erection, construction, remodeling, repairing, altering, painting, and decorating, the transporting of materials and supplies to or from the building, or work done by the employees of the contractor, subcontractor, or agent thereof, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building, or work by persons employed by the contractor, subcontractor, or agent thereof.

d. "Employees working on the project" means laborers, workers, and mechanics employed directly upon the site of the work.

e. "Laborers, workers, mechanics, and truck drivers" includes sub-journeypersons and properly registered and indentured apprentices, but excludes clerical, supervisory, and other personnel not performing manual labor.

f. "Minor service or maintenance work" means a project of public works that is limited to minor crack filling, chip or slurry sealing, or other minor pavement patching, not including overlays, that has a projected life span of no longer than 5 years; the depositing of gravel on an existing gravel road applied solely to maintain the road; road shoulder maintenance; cleaning of drainage or sewer ditches or structures; or any other limited, minor work on public facilities or equipment that is routinely performed to prevent breakdown or deterioration.

4. Establishment of wage rates. The department of public works shall periodically obtain a current schedule of prevailing wage rates from DWD. The schedule shall be used to establish the city of Eau Claire prevailing wage rate schedule for public work construction (prevailing wage rate). The department of public works may include known increases to the prevailing wage rate, which can be documented and are to occur on a future specific date. Upon approval by the common council, the prevailing wage rate shall be included in public work contracts subsequently negotiated or solicited by the city. Except for known increases contained within the schedule, the prevailing wage rate shall not change during the contract.

5. Payrolls and records.

a. The contractor shall keep weekly payroll records setting forth the name, classification, wage rate and fringe benefit package of all the employees who work on the contract, including the employees of the contractor's subcontractors and agents. Such weekly payroll records must include the required information for all city contracts and all other contracts on which the employee worked during the week in which the employee worked on the contract. These records will reflect the individual time each employee worked on the project for each day of the project. Such records shall also set forth the total number of hours of overtime credited to each such employee for each day and week and the amount of overtime pay received for that week. The records shall set forth the full weekly wages earned by each employee and the actual hourly wage rate to the employee.

b. Upon completion of the project, the contractor shall submit, together with the affidavit required by subsection 12, below, the weekly payroll records, including the records of the contractors and agents, to the City for every week that work is being done on the contract.

c. Employees shall be paid unconditionally and not less often than every thirty days. Employees shall receive the full amounts accrued at the time of the payment, computed at rates not less than those stated in the prevailing wage rate, and each employee's rate shall be determined by the work that is done within the trade or occupation classification which should be properly assigned to the employee.

d. An employee's classification shall not be changed to a classification of a lesser rate during the contract. If, during the term of the contract an employee works in a higher pay classification than the one which was previously properly assigned to the employee, the employee shall be considered to be in the higher pay classification for the balance of the contract, will receive the appropriate higher rate of pay, and shall not receive a lesser rate during the balance of the contract. For purposes of clarification, it is noted that there is a distinct difference between working in a different classification with higher pay and doing work within a classification that has varying rates of pay which are determined by the type of work that is done within classification. For example, the classification operating engineer provides for different rates of pay for various classes of work and the employer shall compensate an employee classified as an operating engineer based on the highest class of work that is done in one day. Therefore, an operating engineer's rate may vary on a day to day basis depending on the type of work that is done, but it will never be less than the base rate of an operating engineer. Also, as a matter of clarification, it is recognized that an employee may work in a higher paying classification merely by chance and without prior intention, calculation, or design. If such is the case and the performance of the work is truly incidental and the occurrence is infrequent, inconsequential, and does not serve to undermine the single classification principle herein, then it may not be required that the employee be considered to be in the higher pay classification and receive the higher rate of pay for the duration of the contract.

However, the contractor is not precluded or prevented from paying the higher rate for the limited time that an employee performs work that is outside of the employer's proper classification.

e. Questions regarding an employee's classification, rate of pay, or rate of pay within a classification shall be resolved by reference to the DWD Dictionary of Occupational Classifications and Work Descriptions.

f. The contractor or its subcontractors and agents shall cooperate with city representatives seeking information regarding compliance with the provisions of this ordinance.

g. Mulcting of the employees by the contractor, subcontractors and agents on contracts subject to this section, through kickbacks or other devices, is prohibited. The normal rate of wage for the employees of the contractor, subcontractors and agents shall not be reduced or otherwise diminished as a result of the payment of the prevailing wage rate on a public work contract. Any contractor, subcontractor, or agent violating this provision shall be subject to a civil penalty in an amount equal to three times the amount of pay wrongfully diverted from employee.

6. Hourly contributions. Hourly contributions shall be determined in accordance with the prevailing wage rate and with DWD 290.01(10), Wisconsin Administrative Code.

7. Apprentices and sub-journeypersons. Apprentices and sub-journeypersons performing work on the project shall be compensated in accordance with the prevailing wage rate and with DWD 290.02 and DWD 290.025, Wisconsin Administrative Code, respectively.

8. Straight time wages. The contractors may pay straight time wages as determined by the prevailing wage rate and DWD 290.04, Wisconsin Administrative Code.

9. Overtime wages. The contractor shall pay overtime wages as required by the prevailing wage rate and DWD 290.05, Wisconsin Administrative Code.

10. Posting of wage rates and hours. A clearly legible copy of the prevailing wage rate, together with the provisions of s. 66.0903(10)(a) and (11)(a), Wis. Stats., shall be kept posted in at least one conspicuous and easily accessible place at the project site by the contractor and such notice shall remain posted during the full time any laborers, workers or mechanics are employed on the contract.

11. Evidence of compliance by contractor. Upon completion of the contract, the contractor shall file with the department of public works an affidavit stating:

a. That the contractor has complied fully with the provisions and requirements of s. 66.0903, Wis. Stats., and Chapter DWD 290, Wisconsin Administrative Code; that the contractor has received evidence of compliance with each of the subcontractors and agents.

b. That full and accurate records have been kept which clearly indicate the name and trade or occupation of every laborer, worker or mechanic employed by the contractor in connection with work on the project. The records shall show the number of hours worked by each employee and the actual wages paid therefore; where these records will be kept and the name, address and telephone number of the person who will be responsible for keeping them. The records shall be retained and made available for a period of at least three (3) years following the completion of the project of public work and shall not be removed without prior notification to the municipality.

12. Evidence of compliance by agent and subcontractor. Each agent and subcontractor shall file with the contractor, upon completion of their portion of the contract, an affidavit stating that all provisions of s. 66.0903(3), Wis. Stats., have been fully complied with and that full and accurate records have been kept which clearly indicate the name and trade or occupation of every laborer, worker or mechanic employed by the contractor in connection with the work on the project. The records shall show the number of hours worked by each employee and the actual wages paid therefore; where these records shall be kept and the name, address and telephone number of the persons who shall be responsible for keeping them. The records shall be retained and made available for a period of at least three (3) years following the completion of the project of public work and shall not be removed without prior notification to the municipality.

13. Failure to comply with the prevailing wage rate. If the contractor fails to comply with the prevailing wage rate of this ordinance, he/she shall be in default on the contract.

14. Multiple violations. Upon the third and subsequent violations of this section, the contractor, subcontractor, or agent found in violation will be disqualified from bidding on any project subject to this section for a period of three years following such finding.

15. Exemptions. This section will not apply to work performed by public employees or to work performed on an owner-occupied dwelling in an area zoned R-1, in a TIF District. This section applies to work performed on projects receiving city financial assistance only until such time as the city financial assistance ends.

B. Sanction against bid rigging. Any corporation, firm or individual violating s. 133.03 Wis. Stats. shall, upon conviction thereof, be thereby disqualified as a bidder on any city of Eau Claire project for a period of three (3) years from the date of such conviction. Nothing herein shall be interpreted to preclude such corporation, firm or individual from completing any and all contracts he may already have with the city at the time of such conviction, nor shall this ordinance be applied retroactively to violations occurring prior to the adoption and publication of this ordinance. (Ord. 6945, 2011; Ord. 6214 §2, 2001).

2.92.220 Ethics in public contracting. A. Standards of Conduct--Statement of Policy. Public employment is a public trust. It is the policy of the city to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the city. Such policy is implemented by prescribing essential restrictions against conflict of interest without creating unnecessary obstacles to entering public service.

Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the city procurement organization.

To achieve the purpose of this section, it is essential that those doing business with the city also observe the ethical standards prescribed herein.

B. General Standards of Ethical Conduct for Employees. Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of a public trust. In order to fulfill this general prescribed standard, employees shall meet the specific standards set forth in this section and Sections 2.92.230, 2.92.240, 2.92.260, and 2.92.270.

C. General Standards of Ethical Conduct for Nonemployees. Any effort to influence any public employee to breach the standards of ethical conduct set forth in this chapter is also a breach of ethical standards.

D. Conflict of Interest. It shall be a breach of ethical standards, and a conflict of interest, for any employee to participate directly or indirectly in a procurement when the employee knows that:

1. The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement; or

2. A business or organization in which the employee or any member of the employee's immediate family has a financial interest pertaining to the procurement; or

3. Any other person, business, or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

E. Financial Interest in a Blind Trust. Where an employee or any member of the employee's immediate family holds a financial interest in a blind trust, the employee shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest, provided that disclosure of the existence of the blind trust has been made to the purchasing agent.

F. Discovery of Conflict of Interest, Disqualification, and Waiver. Upon discovery of potential or actual conflict of interest, an employee shall promptly file a written statement of disqualification with the purchasing agent and shall withdraw from further participation in the transaction involved. (Ord. 4051(part), 1980).

2.92.230 Employee disclosure requirements. A. Disclosure of Benefit Received from Contract. Any employee who has or obtains any benefit from any city contract, in which the employee participates directly or indirectly, with a business in which the employee has a financial interest, shall report such benefit to the purchasing agent. Any employee who knows or should have known of such benefit, and fails to promptly report such benefit to the purchasing agent, is in breach of the ethical standards of this chapter. (Ord. 4051(part), 1980).

2.92.240 Gratuities and kickbacks. A. Gratuities. It is a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification of procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor. This section is intended to supplement, and not limit, the provisions of Section 2.72.130.

B. Kickbacks. It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order. (Ord. 4051(part), 1980).

2.92.250 Restrictions on employment of present and former employees. A. Contemporaneous Employment Prohibited. It shall be a breach of ethical standards for any employee who is participating directly or indirectly in the procurement process to be or become, while such an employee, employed by any person contracting with the governmental body.

B. Restrictions on Former Employees.

1. Permanent Disqualification. It shall be a breach of ethical standards for any former employee knowingly to act as a principal or agent for anyone other than the city, in connection with any:

- a. Judicial or other proceeding, application, request for a ruling, or other determination;
- b. Contract;
- c. Claim; or
- d. Charge or controversy; in which the employee participated personally and substantially through decision, approval disapproval, recommendation, rendering of advice, investigation, or otherwise while an employee, where the city is a party or has a direct and substantial interest.

2. One-year Restriction. It shall be a breach of ethical standards for any former employee, within one year after cessation of the former employee's official responsibility, knowingly to act as a principal, or as an agent for anyone other than the city, in connection with any:

- a. Judicial or other proceeding, application, request for ruling, or other determination;
- b. Contract;
- c. Claim; or
- d. Charge or controversy; in matters which were within the former employee's official responsibility, where the city is a party or has a direct or substantial interest.

C. Disqualification of Business. It shall be a breach of ethical standards for a business in which an employee has a financial interest knowingly to act as a principal, or as an agent for anyone other than the city, in connection with any:

- 1. Judicial or other proceeding, application, request for ruling, or other determination;
- 2. Contract;
- 3. Claim; or
- 4. Charge or controversy; in which the employee either participates personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of the employee's official responsibility, where the city is a party or has a direct and substantial interest.

D. Selling to the City.

1. The term "sell", as used in this subsection, means signing a bid, proposal, or contract; negotiating a contract; contacting any employee for the purpose of obtaining, negotiating, or discussing changes in specifications, price, cost allowances, or other terms of a contract; settling disputes concerning performance of a contract; or any other liaison activity with a view toward the ultimate consummation of a sale, including those cases where the actual contract therefor is subsequently negotiated by another person; provided, however, that this subsection is not intended to preclude a former employee from accepting employment with a private business solely because the former employee's employer is a contractor with this city, nor shall a former employee be precluded from serving as a consultant to this city.

2. It shall be a breach of ethical standards for any former employee to sell or attempt to sell supplies, services, or construction to the city for one year following the date employment ceased. (Ord. 4051(part), 1980).

2.92.260 Prohibition against contingent fees. It shall be a breach of ethical standards to retain a person, or for a person to be retained, to solicit or secure a city contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business. (Ord. 4051(part), 1980).

2.92.270 Use of confidential information. It shall be a breach of ethical standards for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person. (Ord. 4051(part), 1980).

2.92.280 Public access to procurement information. Procurement information shall be a public record to the extent provided by state and federal law and shall be available to the public as provided by such laws. (Ord. 4051 (part), 1980).

2.92.290 Civil and administrative remedies. A. Existing Remedies not Impaired. Civil and administrative remedies against employees which are in existence on the effective date of this chapter shall not be impaired.

B. Supplemental Remedies. In addition to existing remedies for breach of ethical standards of this chapter, the city manager may impose any one or more of the following, not necessarily in the order as listed:

1. Oral or written warnings or reprimands;
2. Suspension with or without pay for specified periods of time; and
3. Termination of employment.

C. Recovery from Employee. The value of anything received by an employee in breach of the ethical standards of this chapter or regulations promulgated thereunder shall be recoverable by the city as provided in Section 2.92.310.

D. Due Process. All procedures under this section shall be in accordance with due process requirements and existing state law. (Ord. 4051 (part), 1980).

2.92.300 Civil and administrative remedies against nonemployees. A. Existing Remedies not Impaired. Civil administrative remedies against nonemployees which are in existence on the effective date of this chapter shall not be impaired.

B. Supplemental Remedies. In addition to existing remedies for breach of the ethical standards of this section, the city manager may impose any one or more of the following:

1. Oral or written warnings or reprimands;
2. Termination of a transaction; and
3. Suspension or debarment.

C. Recovery from Nonemployee. The value of anything transferred in breach of the ethical standards of this chapter or regulations promulgated thereunder by a nonemployee shall be recoverable by the city from such person as provided in Section 2.92.310.

D. Right of City to Suspend or Debar.

1. Suspension of a contractor may be imposed during an investigation of charges of a serious and compelling nature based on probable cause indicating the existence of a breach of ethical standards under this chapter or other irregularities of a serious and compelling nature which would affect the integrity of the contractor.

2. Debarment of a contractor may be imposed by reason of a finding of any breach of ethical standards under this chapter or for a finding or other irregularities of a serious and compelling nature affecting the integrity of the contractor.

E. Due Process. All procedures under this section shall be in accordance with due process requirements. (Ord. 4051(part), 1980).

2.92.310 Recovery of value transferred or received.

A. General Provisions. The value of anything transferred or received in breach of the ethical standards of this section by an employee or a nonemployee may be recovered from both the employee and the nonemployee.

B. Recovery of Kickbacks by the City. Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the city and will be recoverable hereunder from the recipient. In addition, said value may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties. (Ord. 4051(part), 1980).

2.92.320 Waiver. On written request of an employee, the city manager may grant an employee or former employee a written waiver from the application of Sections 2.92.220 D or 2.92.250 and grant permission to proceed with the transaction to such extent and upon such terms and conditions as may be specified. Such waiver and permission may be granted when interests of the city so require, or when the ethical conflict is insubstantial or remote. (Ord. 4051(part), 1980).